



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-second session

SUMMARY RECORD OF THE 1575th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 18 March 2003, at 10 a.m.

Chairman: Mr. DIACONU

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Draft concluding observations concerning the thirteenth to seventeenth periodic reports of Tunisia (continued) (CERD/C/62/draftCO/14, document distributed in the meeting room, in English only)

1. The CHAIRMAN invited the members of the Committee to continue their consideration paragraph by paragraph of the text of the draft concluding observations concerning the thirteenth to seventeenth periodic reports of Tunisia.

Paragraph 8 (continued)

2. Mr. YUTZIS proposed that the word “additional” be deleted from the first line, where it was said that the State party had not provided additional information on the Berber population.

3. Mr. AMIR recalled that at the previous meeting he had referred to Berbers as being a component of the population and said that they should be distinguished in one way or another from the rest of the population.

4. Mr. LINDGREN ALVES, sharing that view, suggested that the Committee should recommend in paragraph 8 that increased attention be given to Berbers as a specific community.

5. Mr. ABOUL-NASR said that he would prefer the members of the Committee not to insist on distinguishing Berbers from the rest of the population. It would, of course, be desirable for increased attention to be given to them, but attention should likewise be given to all other communities.

6. Mr. THORNBERRY proposed the following formulation, which might satisfy both Mr. Amir and Mr. Aboul-Nasr: [The Committee] “recommends that increased attention be given to the situation of Berbers as a specific component of the Tunisian population”.

7. Paragraph 8, as amended, was adopted.

Paragraph 9

8. Mr. HERNDL proposed deleting the word “its” before “General Recommendation” in the final sentence, and replacing “crimes” in the last line with “the offence”, which was the term used in article 4 of the Convention.

9. Mr. YUTZIS proposed replacing, in the first line of the paragraph, the formulation “The Committee is not satisfied with any State party’s assertion”, which seemed to him a little ambiguous, with the wording “The Committee does not accept any State party’s assertion”.

10. Paragraph 9, as amended, was adopted.

Paragraph 10

11. Mr. ABOUL-NASR, supported by Mr. THORNBERRY and Mr. LINDGREN ALVES, proposed deleting the reference made to indirect discrimination, which was not really a matter that arose under the criminal law.
12. Mr. HERNDL proposed inserting the word “mere” before the word “absence” in the second sentence so as to underline that the mere absence of complaints and legal action might be indicative of a lack of awareness of the available legal remedies.
13. Mr. de GOUTTES said he thought that the second sentence should be supplemented to make it clear that the absence of complaints and legal action might result not only from victims’ lack of awareness of their rights or from the absence of relevant legislation, but also from the insufficient attention given by the authorities to bringing prosecutions.
14. The CHAIRMAN said that there was no actual basis on which to explain the reason for the absence of complaints as the Committee could make only suppositions in that regard, and he proposed quite simply deleting the second sentence of the paragraph.
15. Mr. SICILIANOS agreed with Mr. de Gouttes that some explanation was required, if only for informational purposes. It was important for States to know what the Committee’s position was.
16. After a further discussion in which Mr. de GOUTTES, the CHAIRMAN, Mr. LINDGREN ALVES, Mr. PILLAI, Mr. ABOUL-NASR and Mr. YUTZIS took part, it was proposed that the second sentence be replaced by a text along the lines: “The Committee reminds the State party that the mere absence of complaints and legal action by victims of racial discrimination may be mainly an indication of the absence of relevant specific legislation, a lack of awareness of available legal remedies, or the insufficient will by the authorities to prosecute.”
17. Paragraph 10, as amended, was adopted.

Paragraph 11

18. Mr. HERNDL proposed that the part of the sentence “The Committee notes the lack of concrete information” at the beginning of the paragraph should be replaced by “The Committee notes that no concrete information was provided.”
19. The CHAIRMAN proposed that the words “no concrete information” should be replaced by the words “insufficient information”.
20. Paragraph 11, as amended, was adopted.

Paragraph 12

21. The CHAIRMAN said that the beginning of the second sentence, where the Committee indicated that it was addressing the same recommendation to all States parties, was unnecessary, and he proposed that it be deleted. The second sentence would therefore begin with the words: “The Committee encourages Tunisia ...”.

22. Paragraph 12, as amended, was adopted.

Paragraph 13

23. Mr. KJAERUM suggested that the Committee should follow the model of the Durban Declaration and Programme of Action for the wording of paragraph 13, and replace the part of the sentence reading “invites the State party to consider the possibility of making such a declaration” with “urges the State party to consider making such a declaration”.

24. Mr. ABOUL-NASR, supported by Mr. TANG, said that he was against modifying the text, since the Committee had already adopted and used it in the past. Furthermore, the optional nature of the declaration ought, in his opinion, to be apparent from the text of the recommendation.

25. Mr. de GOUTTES, with a view to taking account of Mr. Aboul-Nasr’s comment, suggested making reference in the first part of the sentence to the optional nature of the declaration and retaining the wording proposed by Mr. Kjaerum for the second part.

26. Mr. YUTZIS said that the wording of paragraph 75 of the Durban Programme of Action, in which States were “urged” to consider making the declaration provided for in article 14 of the Convention, responded to the wishes of all and was suited to the situation.

27. Mr. RESHETOV said he considered, for his part, that the term “urged” was too strong to designate an optional act, and he feared that some countries would find it hard to accept.

28. Mr. KJAERUM pointed out that it was the States which had adopted by consensus the Durban Declaration and Plan of Action and it would therefore be logical for the Committee to adopt the wording used there concerning the declaration provided for in article 14 of the Convention.

29. Mr. ABOUL-NASR said that he was still opposed to the text proposed by Mr. Kjaerum; he could, however, accept a wording that reproduced the terms of paragraph 75 of the Durban Programme of Action, subject to the insertion of the word “optional”.

30. The CHAIRMAN said that, taking into account the changes proposed during the discussion, the text to be used in the future whenever required could read: “The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention, and urges the State party to consider the possibility of making such a declaration.”

31. Paragraph 13, as amended, was adopted.

Paragraph 14

32. The CHAIRMAN pointed out that paragraph 14 was the new model paragraph, which had been drafted in accordance with Mr. Herndl’s proposal and in which the Committee strongly recommended that States parties ratify the amendments to article 8 of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed

by the General Assembly in its resolution 47/111. He added that if the paragraph were to be adopted, it would be inserted in the Committee's concluding observations concerning the implementation of the Convention in States parties that had not as yet ratified those amendments. If there was no objection, he would take it that paragraph 14 was adopted.

33. It was so decided.

Paragraphs 15 and 16

34. Paragraphs 15 and 16 were adopted.

Paragraph 17

35. Mr. PILLAI raised the question of the periodicity of reporting and the trend now becoming apparent for the Committee to request States parties, in its concluding observations, to submit several reports in a single document at a later date.

36. The CHAIRMAN pointed out that the Committee would simply not be in a position to examine overdue State party reports one by one and that account must therefore be taken of the scheduling requirements involved. He felt that when the Committee completed the consideration of a country report submitted late and, under the applicable rules, the following periodic report fell due within less than two years, its consideration would have to be deferred, and that would in no way enable an assessment to be made of developments in the situation. Examining the reports of Tunisia one by one would oblige the Committee to consider the country's eighteenth periodic report before January 2004, an arrangement that did not seem to present any great interest, and thus the new deadline had been given as January 2006.

37. He accordingly proposed making that new practice generally applicable and systematically requesting countries which found themselves in such a situation to submit their two following reports in a single document, within two years of the date set for the submission of their next report.

38. It was so decided.

39. The draft concluding observations concerning the thirteenth to seventeenth periodic reports of Tunisia as a whole, as amended, were adopted.

Sixteenth and seventeenth periodic reports of Ghana (CERD/C/431/Add.3) (continued)

40. At the invitation of the Chairman, the members of the delegation of Ghana took places at the Committee table.

41. Mr. SHAHI commended the Government of Ghana on the quality of its sixteenth and seventeenth periodic reports, in which it had acknowledged the difficulties encountered in the implementation of the Convention. He was, in addition, pleased to note that the Government had established a Commission on Human Rights and Administrative Justice (CHRAJ), which had 89 district offices located in all regions of the country and whose principal aim was to ensure Ghanaians access to the mechanisms intended to protect them against racial discrimination. The Government's efforts had been recompensed since, of the 9,265 complaints received by the

Commission in 2000, only about 40 had concerned instances of discrimination, and less than 5 had been directly related to acts of racial discrimination. He also took note of the fact that, in almost all of the cases, the complainants had been satisfied with the justice rendered. He saw from paragraph 110 of the report that the domestic legislation did not fully meet the requirements of article 4, paragraphs (a), (b) and (c), of the Convention, and therefore found it very gratifying that the Ministry of Justice was currently reviewing and revising the Criminal Code. He encouraged the State party, through its new legislation, to provide itself with the means to enable it to discharge fully its obligations under paragraphs (a), (b) and (c) of article 4, and to ensure that CHRAJ had every latitude to see to it that the article was applied.

42. Ms. JANUARY-BARDILL said that she also appreciated the quality of the report submitted by the Government of Ghana. Noting that, according to a survey conducted in 1997, 25 per cent of the respondents had felt discriminated against due to their tribal origins, she would like to have fuller information in particular about how such discrimination might be manifested. Could the persons concerned cite specific acts of discrimination or were they suffering more generally from prejudices?

43. She noted a contradiction in the report between paragraph 97, which spoke of only a “small number of incidents of racial conflict”, and paragraph 98, which indicated that “several thousand citizens [had] died in the northern part of Ghana”. She wondered what the actual situation was and whether the delegation could provide some clarification on that point. She would like to know, in particular, about the underlying causes of tribal conflicts and what steps the Government intended to take, in addition to the administrative measures described in paragraphs 94 and 106, to put an end to such conflicts and to deal with the chieftancy issues that occasionally arose.

44. Ms. AKUA AKUFFO (Ghana) said that her delegation had consulted the ministries concerned in order to be able to answer as fully as possible the questions put to it. She could therefore indicate that the courts and CHRAJ were empowered to grant civil remedies for violations of article 17 of the Constitution. Such remedies could take the form of financial compensation, reinstatement, retraction or an apology. If, for example, a foreign employer spat on a Ghanaian employee or subjected him to racist verbal attacks, the remedy might lie in an action for damages against the employer, who could also be charged with assault.

45. Statistics concerning the Northern Scholarship Scheme were not readily available to her delegation, but the scheme had been universally applied for a number of years and, as a result, there were many people in responsible positions who had been beneficiaries. However, owing to poverty, some people had been unable to take full advantage of the scheme, and that explained why illiteracy rates were still high in the north of Ghana. CHRAJ had consequently made it part of its programme to inform the people about the importance of education for the realization of their potential and the development of their communities.

46. The Permanent Negotiating Team had been set up specifically at the time of the Konkomba-Nanumba conflict and was no longer in existence because of regime change. However, with regard to the Yendi crisis (in the Dagbon region), the Government had launched a number of initiatives involving prominent traditional rulers from various parts of Ghana outside

the conflict area, as well as UNDP and an NGO, to help resolve that problem. On the ground, the Regional Security Council had taken over, assisted by the District Security Council. The Government was therefore using cross-cultural or multicultural means of dealing with the conflict.

47. The Government had recognized the negative impact on poor segments of the population of structural adjustment programmes, which had not removed income disparities. Consequently, it had introduced the Programme of Action to mitigate the social effects of structural adjustment - which had failed to alleviate satisfactorily the problem of poverty levels in the country - and had then launched new initiatives, such as the Ghana Poverty Reduction Strategy Paper, with the stakeholders participating together to deal with the problem by creating employment and wealth and reducing poverty. Moreover, the District Assemblies Common Fund was being used to pursue priority development projects identified by the districts themselves. Funds for those projects came from heavily indebted poor country initiatives, and disbursements were left at the discretion of the districts, which submitted their own priority programmes for funding.

48. Mr. SHORT (Ghana) said that, since its establishment in 1993, CHRAJ had needed to apply to the courts in 70 cases for the enforcement of its decisions. About 90 per cent of the Commission's decisions had been upheld and only seven reversed by the courts. It should be pointed out that CHRAJ decisions were binding on parties and enforceable by court order. The Commission did not handle matters that were pending before or had already been decided by the courts. However, it could take action to seek any remedy available in a court or appear before the court as a third party (*amicus curiae*).

49. Ms. AKUA AKUFFO (Ghana) indicated that the competent bodies were aware of the deficiencies in the domestic legislation relating to the application of article 4 of the Convention and would be attending to them as part of the general review of the Criminal Code now in progress.

50. The provisions of the Constitution on incitement to racial hatred had never been invoked before the courts to ban an organization, since there had been no instance of such incitement by any organization in Ghana.

51. The Constitution called for a regional and ethnic balance in the composition of the Government. The Government had not only complied with that constitutional requirement, but had also appointed members of other political parties to ministerial and other high public positions. It was mandatory for all political parties to set up registered offices in all regions and to have a national and not an ethnic character. The Government's adherence to those provisions enhanced the promotion of racial harmony and proved that the NPP was a truly national government. In addition, all Ghanaians, wherever they resided in the country, enjoyed the civil, political, economic and cultural rights referred to in article 5 of the Convention. Statistics on literacy rates broken down by ethnic group were not readily available to her delegation, but would be included in Ghana's next periodic report.

52. The patrilineal and matrilineal systems of inheritance were applied variously in the northern and the southern parts of the country. Under the patrilineal system, inheritance devolved through the father, while in the matrilineal system it devolved from uncles to nephews, thus excluding the widows and children of the deceased. A law had, however, been passed in 1985 giving widows and children the right to inherit a substantial part of the deceased person's estate.

53. She acknowledged, furthermore, that cruel widowhood rites were practised, although there was a law banning them. Victims submitted themselves to those practices as a result of their belief that they formed a part of their culture. As such instances were virtually never reported, any investigation was very difficult. The authorities had consequently decided to focus on education and information activities to raise people's awareness of the unlawfulness of the customary rites concerned; workshops had been organized and plays staged with a view to making women more conscious of their rights.

54. The "sex-slavery" practice of Trokosi (para. 47) was deeply rooted in the culture of some of the country's remoter regions and almost never gave rise to complaints; CHRAJ therefore had to intervene on its own prerogative. The small number of prosecutions brought against persons responsible for practising female genital mutilation could likewise be explained by the fact that those acts took place in great secrecy now, with the passage of a law banning such practices, and were quite often performed with the victims' consent, making them difficult to detect. Now informed about the seriousness, risks and unlawfulness of female genital mutilation, young girls were tending to move away to towns in the southern part of the country where it was not practised. Efforts were being made to enable prosecutions to be brought against the practitioners.

55. Regarding the status of refugees in Ghana, she said that her country had been hosting refugees from Liberia, Sierra Leone, Togo and Chad for the past 10 years. Since the crisis in Côte d'Ivoire in September 2002, Ghana had received new waves of refugees from that country. At the latest count, in Ghana there had been over 41,000 refugees located in four camps set up in cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR). Ghana had never strictly insisted on refugees staying within the camps. On the contrary, they could move in and out freely, and some had even acquired land, built houses and opened small shops, taking advantage of the law that authorized foreigners to buy plots of land on leasehold terms renewable every 50 years.

56. Recent actions by the Government intended to sanitize the refugee camps, particularly the one at Buduburam, had shown that both sides in the Côte d'Ivoire conflict had been recruiting refugees from the camps to enrol them in their armed forces. Ghana was being used by UNHCR as a hub for screening West African refugees with a view to their resettlement in the United States and Canada. It made no distinction between UNHCR mandate refugees and registered refugees. Those refugees choosing Ghana as a second or third country of asylum had never been sent back.

57. She indicated, furthermore, that the part of her country's report stating that "largely as a result of the deportation of 1 million Ghanaians by Nigeria in 1983, many Ghanaians harbour[ed] resentment towards Nigerians" (para. 104) was to be deleted as it was incorrect. There had been no real incidence of violence against Nigerians, who continued to live in peace and harmony with the people of Ghana.

58. As to how the media were treating issues of ethnic discrimination, the Government and the Journalists Association had agreed on guidelines on the coverage of events relating to the conflict in the Yendi district, which in particular prohibited reports of speeches of hatred against any group, the publication of material that diminished human dignity and any propaganda. The journalists themselves had also adopted their own general guidelines on the reporting of incidents of that kind.

59. NGOs had, indeed, participated in the drafting of the report under consideration. On 18 March 2002, a workshop had been held to discuss the draft report with NGOs, political parties and the media. The report had been made available to all interested persons and bodies.

60. In spite of the fact that the Convention had not been specifically incorporated into Ghana's laws, its provisions could be cited by the national courts, as had also been the case in respect of other international instruments ratified by Ghana.

61. Ghanaian citizenship was acquired by birth, by descent (if either of the parents or grandparents was or had been a citizen of Ghana or, in the case of foundlings, where the children's parents were not known and were presumed to be Ghanaians), by adoption, provided that the child was not more than 16 years of age, by parliamentary decree, by marriage or by naturalization.

62. The Government of Ghana also intended to examine carefully the provisions of article 14 of the Convention and the amendments to article 18. Information in that regard would be included in the next report.

63. Regarding the practical results of the administrative measures taken to avoid conflicts in Ghana, she indicated that because district and regional security councils were present in all parts of the country, they were able to pre-empt serious racial and ethnic clashes. Moreover, radio and television broadcasts addressed the serious effects of ethnic tensions and information was disseminated even in the local languages about those problems.

64. Measures had, furthermore, been taken to close the educational gap between urban and rural areas, and the Government offered incentives for teachers to take up appointments in rural areas. Schools had been equipped in deprived parts of the country, and model senior secondary schools were being set up in each district, with admission quotas reserved for students from rural or local communities.

65. Mr. SHORT (Ghana) explained that the National Commission on Civic Education (NCCE) was responsible for educating the public about all aspects of the Constitution and human rights, while CHRAJ advised people on issues relating to human rights and fundamental freedoms. It was true that their tasks overlapped somewhat and their activities would need to be better coordinated in the future.

66. According to the latest figures available, in 2001 CHRAJ had, inter alia, handled 279 complaints relating to child custody, 69 complaints of deprivation of the right to education, 502 complaints relating to family/marital status, 74 complaints regarding unlawful arrest or detention, 30 complaints of sexual harassment, 54 complaints relating to rape cases, and 77 complaints of victimization or discrimination.

67. Replying to the questions on the handling of complaints from illiterate persons, he explained that all CHRAJ regional offices had staff trained in taking down verbal complaints. Once put in writing, the officers read over each complaint to the persons concerned and had them sign it or append their thumbprints to it, if they were unable to write. CHRAJ also had interpretation services for non-English speakers, and the legal services were free of charge. However, the Commission was not empowered to conduct criminal investigations, which were the preserve of bodies such as the security agencies and, more particularly, of the Attorney-General. Regrettably, he was not in a position to supply precise information about the five cases of racial discrimination examined by the Commission. He recalled, however, that one of those cases had concerned a Malaysian employer who had spat on a Ghanaian worker. The matter had been handled diplomatically and the employer had left the country.

68. He recognized that there might be some objections to marriage between persons not belonging to the same ethnic group, but emphasized that such cases were rare. Indirect discrimination did exist in Ghana, even if it was not specifically mentioned in the legislation. Steps had been taken to prevent that kind of discrimination.

69. CHRAJ played an active part in the drafting of legislation and making inputs and submitting memoranda to Parliament. It could also participate in discussions to critique bills. In cooperation with non-governmental organizations, it had begun work on the formulation of the national plan of action required to meet the commitments undertaken by States at the World Conference against Racism. It had also taken part in events such as the African regional seminar organized in Nairobi in September 2002 for the follow-up to the Conference. In addition, the Commission had inquired quite freely about cases of discrimination involving public officials. Between 50 and 60 per cent of the cases had related to wrongful dismissals and three ministers had resigned in 1995 following accusations of corruption confirmed in the Commission's findings. CHRAJ had no special anti-discrimination unit, partly because it was understaffed and under-resourced, but the statistics available on cases of racial discrimination did not currently warrant the establishment of such a unit. The Commission published an annual report that was disseminated at local and international level, as well as reports on the inspections that it made in prisons or about practices such as the Trokosi system. Such publications would soon be available on Internet. Lastly, the Commission had invited religious and other traditional leaders to workshops on human rights, in particular with a view to combating certain inimical customs and practices still pursued in various parts of the country.

70. Ms. AKUA AKUFFO (Ghana) explained that, in addition to English, which was the national language, the main local languages were taught in primary and secondary schools. In Accra and Ajumako, the Institute of Languages encouraged the study of Ghanaian languages.

71. With regard to national legislation, the Constitution defined the sources of Ghanaian law as including statute law, common law and customary law, the latter still being very important especially in the areas of land law, succession and marriage. The courts applied the rules of customary law only to the extent that they were consistent with the Constitution.
72. She wished to provide some information covering the period since the preparation of the seventeenth periodic report. As human rights violations committed during the non-constitutional periods were not actionable, the Government of Ghana had set up a National Reconciliation Commission along the lines of South Africa's Truth and Reconciliation Commission, its aim being not to punish the alleged violators but rather to create an opportunity for the alleged victims to put forward their cases and enable reparation to be considered.
73. The Government had also established a Ministry for Women and Children's Affairs, having in mind that women and children were those most particularly affected by traditional practices and attitudes and by poverty. A development fund with an initial sum of 21 billion cedis had been created to provide micro-credit facilities for women, and a campaign had been launched to combat forced child labour.
74. She wished to make it clear that the clashes that had occurred in the northern part of the country in 1994-1995 had left hundreds of people dead, and not thousands, as erroneously stated in paragraph 98 of the periodic report.
75. Mr. de GOUTTES said that he would like to have some examples of the traditional practices being combated by the Ghanaian authorities.
76. Mr. YUTZIS noted the importance attached by the national authorities to the part that could be played by educational gaps in the difficulties being faced in building a society free of racial discrimination in Ghana and asked what action the authorities intended to take in that regard.
77. Mr. AMIR said that he would like to know whether HIV/AIDS was hitting Ghana as hard as other African countries and whether the authorities were organizing sex education courses for children.
78. Ms. AKUA AKUFFO (Ghana) said that one example of the customs being combated by the authorities was the ritual that obliged a widow to eat, sitting directly on the floor, from a calabash. Another custom required girls to be circumcised before marriage. Regarding education, the authorities were endeavouring with some success to provide rural areas with better schools, particularly at the secondary level. Human rights violations, the evils of war and discrimination were constantly reported on television and radio, including in the local languages. To avert latent inter-ethnic conflicts, the authorities sought to involve the traditional leaders in finding solutions, as they were the people best placed to understand the significance of customs. With regard to HIV/AIDS, Ghana was not spared from that problem and had put in place a national programme focused on prevention. One important task was to correct widely held false ideas concerning the transmission of the disease. That work was being done in close

cooperation with non-governmental organizations. Workshops were organized in schools to raise children's awareness about AIDS and other sexually transmitted diseases. Sex education, whether provided in schools, through the media or in the form of street theatre, was therefore common in Ghana.

79. Mr. PILLAI (Rapporteur for Ghana) thanked the delegation for the excellent periodic report which it had presented to the Committee and for the additional explanations that it had furnished during its consideration. He would like some points to be developed during the presentation of Ghana's next periodic report: actual enjoyment of the rights set forth in the Constitution and legislation of Ghana, the role that traditional institutions and practices could play in sensitizing people to human rights issues, the harmful practices that should be combated, education and awareness-raising programmes, the activities of the Commission on Human Rights and Administrative Justice and the new institutions put in place since the drafting of the seventeenth periodic report (National Reconciliation Commission and Ministry for Women and Children's Affairs), child labour and the dissemination of reports on the implementation of international human rights instruments (including in the vernacular languages).

80. The delegation of Ghana withdrew.

The meeting rose at 12.45 p.m.