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the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-seventh session

SUMMARY RECORD OF THE 1720th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 15 August 2005, at 10 a.m.

Chairman: Mr. YUTZIS

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Fourteenth to eighteenth periodic reports of Nigeria (CERD/C/476/Add.3)

1. At the invitation of the Chairman, the members of the delegation of Nigeria took places at the Committee table.
2. The CHAIRMAN said that, in keeping with the Committee's decision to begin each week of the session with a moment of reflection, he wished to read an excerpt from a book by French philosopher Myriam Revault d'Allonnes on the subject of evil in politics. The author had based her arguments on key concepts from the work of German political philosopher Hannah Arendt, including that of "the banality of evil", according to which the propensity of Nazi regime member Adolf Eichmann to participate in political evil had been attributable not to his malevolent hatred of Jews, but rather to his failure to think and judge from the perspective of others. The ability to think with what Arendt had referred to as an "enlarged mentality" was, according to the author, potentially present in everyone. It involved the adoption by each person of multiple perspectives and had nothing to do with the fantasy of a collective identity that merely massed together numerous examples of the same viewpoint. Those words were particularly well suited to inspiring the Committee and the States parties whose delegations would be participating in dialogue with it truly to see things from each other's perspective.
3. Mr. BIN RIMDAP (Nigeria), introducing the fourteenth to eighteenth periodic reports of Nigeria (CERD/C/476/Add.3), drew the Committee's attention to the written responses his Government had submitted as an addendum to the report. Nigeria provided an enabling environment for the free expression of views by individuals and organizations for the purpose of promoting and protecting human rights. The fact that the provisions of the Convention had not yet been incorporated in national legislation was attributable to the succession of military governments to which Nigeria had formerly been subjected and which had attached little importance to respect for human rights. Since Nigeria's return to democratic governance in 1999, steps had been taken to redress that situation, and the Ministry of Justice was working jointly with the National Assembly on an Anti-Discrimination Bill whose objective would be to incorporate the principles of the Convention in national legislation.
4. Chapter IV of the Nigerian Constitution contained a definition of discrimination and guaranteed the right to freedom from discrimination for every citizen of Nigeria. Since Nigeria's return to democracy, there had been numerous calls for amending the Constitution or drafting a new one. Both the Senate and the House of Representatives were currently formulating such amendments, whose approval would involve a lengthy and cumbersome procedure. In March 2005, the executive branch of the Obasanjo Administration had inaugurated the National Political Reform Conference, giving it a broad mandate to advise the Government on how best to strengthen the country and create a sense of fairness and belonging in every Nigerian citizen.

5. The Osu Abolition Law of 1958 had been enacted to prohibit the discriminatory Osu caste system that had been practised in south-eastern Nigeria. The law had been adopted by the five states established following the now defunct eastern regional government. No cases had been prosecuted in connection with the law because no claims of its violation had been made.
6. No foreigner had had cause to seek redress in court for the violation of his or her right to freedom, owing to the fact that the rights of foreigners living in Nigeria were protected in the same way as those of all Nigerian citizens. Section 15 of the Constitution provided for the right to freedom from discrimination and was in conformity with article 2 of the Convention. The non-justiciability of incidental rights arising from the rights of every resident, such as the right to work, was directly related to Nigeria's status as a developing country and the fact that its economy could not yet support full enforcement of those rights.
7. The development of new state and local governments by successive military regimes had stimulated economic development, but had also created problems relating to the uneven distribution of resources and the workforce. Despite those problems, no state government had the right to discriminate against any civil servant. Civil servants who considered that their rights had been violated could seek redress through a number of government agencies set up for that purpose, including the Code of Conduct Bureau, the Public Complaints Commission and the Federal Character Commission. The latter Commission had been established to harness the diverse interests of the 250 or so ethnic groups that made up the Nigerian population. Its aim was to promote equitable participation in national affairs. Section 14 (3) of the Constitution sought to promote national unity by ensuring that no one group took precedence over the others; section 16 listed the economic objectives of the State; and section 17 described the social order, which was founded on the ideals of freedom, equality and justice.
8. A revenue allocation and fiscal commission had been established to advise the Government on appropriate formulas for allocating federally accruable oil and gas revenues to the federal, state and local governments. The current Administration had opened that issue for public debate; it would also be addressed in the context of the National Political Reform Conference.
9. Some concern had been expressed about the allocation of political power to particular geographic zones, particularly in relation to the office of President. Since military dictatorships were not known for adopting democratic principles in the allocation of power they had seized undemocratically, it was not logical to assume that preference of any kind would be given to certain geographic areas from which military rulers had originated. Rather, their decisions were usually arbitrary. Since Nigeria's return to democracy, the issue of zoning prominent political offices, including the Presidency, had gained acceptance and was being considered by the National Political Reform Conference.
10. His Government would strive to improve future periodic reports and to submit them on time. It looked forward to receiving the support and technical assistance offered by the Office of the High Commissioner for Human Rights (OHCHR).
11. Ms. JANUARY-BARDILL (Country Rapporteur) welcomed the resumption of dialogue between the Committee and the Nigerian Government. It was encouraging to be able to share information and exchange views, particularly given the numerous opportunities that currently

existed in the world for improving the state of human rights. Nigeria was among the most populous, vibrant and energetic countries in Africa. It had a deep sense of self-worth and a strength that, if harnessed effectively, could benefit the continent as a whole. She commended Nigeria for its current role in peacemaking efforts within the African Union and its representation of Africa in international negotiations to improve economic relations between Africa and the industrialized nations.

12. A renewed respect for Nigeria had become evident and much progress had been made within its borders in reversing some of the negative political, economic and social legacies of previous military governments. The current civilian Government, which had been elected in 1999, was slowly having an impact in its efforts to reform the country and ensure good governance. It was regrettable that the current periodic report had missed the opportunity to inform the Committee of Nigeria's successes over the past 10 years. It also fell short of exploring the most fascinating challenge facing Nigerian society, namely, the dynamics relating to its ethnic, cultural, regional, linguistic and religious diversity. It appeared that there had been little, if any, consultation with Nigerian civil society organizations in preparing the report. Such consultation created an opportunity for dialogue and greatly encouraged joint ownership of national challenges, as well as making valuable contributions to periodic reports.

13. Those factors had compelled the Committee to conclude that there had been insufficient monitoring of the level of protection, promotion and fulfilment of the constitutional and fundamental rights of Nigerians. The Committee had therefore had to rely on other sources of information, such as shadow reports submitted by Nigerian and international NGOs, and various studies by the Sub-Commission on the Promotion and Protection of Human Rights. Its efforts to probe a little deeper stemmed from a desire to share its concerns with the State party and to assist it as it grappled with its societal complexities in an effort to create national unity.

14. She commended the State party for having ratified a number of international instruments, including the Convention on the Elimination of All Forms of Discrimination Against Women. Clarification was still needed regarding the status of the ICERD within Nigeria's domestic law. It appeared that treaties were not, as a matter of course, enforceable in Nigeria since section 1 of successive Nigerian Constitutions (1963, 1979 and 1999) had suggested that the Constitution took primacy over international law. That position seemed to have been reaffirmed by the Supreme Court of Nigeria in the case of *Chief Gawi Fawehinmi v. Abacha*, when it had stated that an international treaty entered into by the Government of Nigeria did not become binding until enacted into law by the National Assembly. That had been the case with the African Charter on Human and Peoples' Rights, which had been incorporated in domestic law through the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act. She requested further information on the incorporation of the Convention in Nigeria's domestic law, especially with regard to its status as a federal State that encompassed statutory, customary and religious legal systems - factors that could potentially compromise compliance with the Convention.

15. Despite the Government's commendable efforts to protect human rights and prevent discrimination by establishing institutions and policies, the lack of a clear definition of discrimination could undermine the guarantees and protective measures provided by those institutions and policies. It was also possible that some vulnerable groups that required protection by virtue of their social or economic status could have been overlooked as a result of

the lack of definition of discrimination. While the Osu system had officially been abolished in 1956, its effects endured in discriminatory practices such as the exclusion of members of that group from certain political and economic activities, and their lack of free social movement. That problem would also be partially addressed by establishing a clear definition of discrimination.

16. Since the right to freedom from discrimination appeared not to extend to foreigners, the domestication of the Convention and a definition of discrimination would also help protect the constitutional rights of non-citizens and endogamous status groups. In that regard, the State party should examine the Committee's General Recommendation XXX on discrimination against non-citizens. It would be useful to learn about the current status of the 2004 Anti-Discrimination Bill, despite the fact that it did not include all affected groups in Nigeria, and had omitted discrimination based on colour and citizenship. Additional information on the work of the institutions listed in paragraph 5 of the periodic report, and the implementation of the measures referred to in paragraph 10, should be included in the following report. The Government should indicate whether it intended to make a declaration under article 14 of the Convention.

17. Little information had been provided on the implementation and success of measures to give effect to article 2 of the Convention. It was difficult to understand how the goal of national unity was being advanced, given the Government's reluctance to disaggregate information in the census. The Committee would appreciate further explanation of the reasons for not disaggregating population statistics by religion and ethnicity.

18. She requested more details on the Institute for Peace and Conflict Resolution, the National Action Plan for the Promotion and Protection of Human Rights, the National Inter-Religious Council and the Poverty Alleviation Programme. In particular, the delegation should clarify whom those programmes targeted, how they were coordinated, who was responsible for their implementation, how they were resourced and monitored, how their success was measured and who should benefit from them. It would also be useful to know whether employment patterns were monitored by ethnicity, race and gender. The reporting State should also be more specific about the legislative and judicial frameworks that had been established to fulfil its obligations under the Convention.

19. More information should be provided on the challenges relating to ethnicity, regional diversity and cultural, social and linguistic factors that hindered realization of the Government's commendable objectives. It would be interesting to learn how the Government reconciled the many allegations of heavy-handedness on the part of law enforcement agencies quelling inter-ethnic, religious and other conflicts with its assertion that the army was not used to restore law and order.

20. Turning to article 3 of the Convention, she said that the report had made no mention of descent-based discrimination. NGO and other reports had claimed that, despite constitutional rights to equality and non-discrimination, the Osu did not enjoy full human rights because people were frightened to acknowledge the reality of their situation and, in particular, the association with ancestral spirits, the occult and so-called "spiritual" relations. The Committee urged the

Government to consider its General Recommendations XXIII on the rights of indigenous peoples and XXIX on descent-based discrimination, and to support those who were working to abolish the dehumanizing effects of the caste system.

21. It was unclear whether the Criminal Code prohibited incitement to racial discrimination, as required under article 4 of the Convention. If so, the reporting State should provide examples of the application of that Code, indicating the outcomes of cases and the remedies that had been applied. It would also be useful to know what steps the Government had taken to address so-called environmental racism, and to deal with the health hazards suffered by indigenous people as a result of oil exploitation by multinational companies.

22. As to the rights enshrined in article 5 of the Convention, additional information on the 74 Unity Colleges should be provided. In particular, she wished to know which students were admitted to those colleges, how they were recruited or selected, and what was the ethnic and gender composition of the student population. The Committee was concerned at reports that many minority groups had been marginalized in political and elective offices, that Nigeria paid little attention to the rights of non-citizens, that foreign men who married Nigerian women did not automatically have access to citizenship by marriage, and that their children suffered the same fate. Similarly, ethnic minorities in the oil-rich Niger Delta region had allegedly derived little benefit from their natural inheritance. The uneven distribution of oil revenue had left some communities poor and aggrieved, and had in some cases forced women to resort to sex work and trafficking, resulting in the increased spread of HIV and related diseases. The State party should continue its efforts to reverse those trends. The Committee would appreciate additional information on the Poverty Alleviation Programme and the National and State Economic Empowerment Development Strategies, in particular their impact on the alleviation of tensions between different ethnic, religious and regional groups.

23. It would be useful to have more information on human rights training for the police that had been organized in conjunction with OHCHR, particularly the request for capacity-building for law enforcement agencies and human rights institutions under the Technical Assistance and Advisory Support Services programme. The Committee was concerned at reports of restrictions on freedom of expression, and especially that of individuals and institutions that were critical of the Government. Many trials in sharia courts had allegedly failed to conform to international standards and undermined due process, with defendants having no access to lawyers, not being informed of their rights and being tried by poorly trained judges. NGOs had reported that sharia law was particularly discriminatory towards women and lenient towards men.

24. Turning to article 6 of the Convention, she requested additional information about the work of the Public Complaints Commission. It would be useful to learn what steps had been taken to raise public awareness of the Commission's work. The delegation should indicate how the National Revenue Allocation System would affect the most vulnerable ethnic minorities. In its following report, the State party should provide additional information on the new institutions listed in the reply to question 24 and in paragraph 22 of the additional report, particularly on their activities and the impact they were having. More specifically, information should be provided on the report of the Oputa panel of inquiry and the recommendations it had recently submitted to the National Political Reform Conference. It would also be useful to have a full account of the educational initiatives that were being developed to promote human rights.

25. The Nigerian social structure was unquestionably complex. The intersections of race, ethnicity, regional diversity, religion, class, language, gender, size, and indigenous and settler communities made the problems encountered by other countries pale into insignificance. The Committee therefore looked forward to an interesting and constructive dialogue with the delegation.

26. Mr. BOYD requested additional information on the mandate of the commission of inquiry to investigate allegations of the use of force by the military. It would be useful to learn about the tools at its disposal, such as access to compulsory process and the ability to subpoena witnesses. What specific conclusions had the commission reached, and what facts had it used to support its decisions? Had any sanctions resulted from the inquiry, such as criminal indictments, courts martial, civil sanctions, compensation, reparation or civil redress? The delegation should indicate what recommendations had been made for future prevention, reform or systemic remedial action.

27. He asked what steps the Government was taking to address the concerns of the ethnic groups, particularly those in the oil-rich Niger Delta region, about their lack of meaningful representation in government, particularly regarding petroleum issues and their relations with the security forces. If the Government did not take steps to remedy that situation, how did it plan to control the almost inevitable continuing conflict that would ensue?

28. It was difficult to understand why the periodic report made no reference to the remnants and practices of the caste system. It would be interesting to have a full account of the affirmative action the Government had taken, or intended to take, to improve the situation of those still affected by those persistent practices.

29. Mr. VALENCIA RODRÍGUEZ, referring to part 3.G of the additional report, asked what steps the ad hoc panels, which had been set up to investigate the causes of communal clashes in different parts of the country, were taking to prevent them. He would welcome information about the functions and achievements of the Human Rights Investigation Panel. In addition, it would be useful to know how the Panel had overcome the legal difficulties involved in implementing the Convention. He also wished to know how the policies referred to in paragraph 10 of the periodic report were being implemented and what results had been achieved. The delegation should provide more information on the National Human Rights Commission and explain how its work was being coordinated with that of the Human Rights Investigation Panel. Had there been any cases of racial discrimination and, if so, how had they been dealt with? He reiterated the Committee's request that the Government should fulfil the requirements of articles 1 (1) and 4 of the Convention.

30. Additional information on the implementation of the rights enshrined in article 5 of the Convention and on the results of action taken to combat HIV/AIDS should be provided. Referring to paragraph 20 of the report, he enquired about the results of the studies undertaken by the Government with a view to developing efficient policies for the protection of human rights. The delegation should comment on allegations that government agents had contributed to antagonism in maintaining public order.

31. He welcomed the Government's efforts to universalize public education and asked what had been the results of the measures listed in paragraph 23 of the additional report. In conclusion, he enquired what had been the results of the Government's decision to continue promoting unity and understanding among the various racial, ethnic, religious and cultural groups.

32. Mr. HERNDL said that the delegation had not justified the long delay in the submission of the report, and urged it to avoid such delays in the future. He stressed the need to ensure that all the issues raised by Committee members would be addressed in Nigeria's future reports.

33. He asked whether the delegation intended to incorporate the Convention into domestic legislation and reiterated the Committee's recommendation that the Government should consider the possibility of making a declaration under article 14 of the Convention. It would be useful to know what steps had been taken to implement article 4. Referring to paragraph 16 of Nigeria's previous report to the Committee (CERD/C/263/Add.3), he asked whether laws had been overhauled, and wished to know what new provisions had been introduced. In paragraph 6 of the additional report, reference had been made to a "report" which could not be implemented. He wished to know what that report was and what steps would be taken to respond to the court ruling that the Human Rights Violation Investigation Commission lacked jurisdiction. In conclusion, he reiterated the Committee's recommendation that the State party should ratify the amendments to article 8 of the Convention.

34. Mr. PILLAI said that, according to a report by an NGO, section 42 of the Constitution guaranteed protection from racial discrimination only to Nigerian citizens. He asked whether the proposed Anti-Discrimination Bill would offer such protection to refugees and other categories of the population. Did the Bill contain a provision regarding discrimination against the Osu? He reiterated the Committee's concern about delays in the implementation of legal provisions against racial discrimination and asked the delegation to provide information on the country's policy of affirmative action.

35. According to information provided by the United States Committee for refugees, there had been around 750,000 internally displaced persons (IDPs) in central Nigeria between 2001 and 2003, and over 50,000 in the whole country at the end of 2003. He wished to know what ethnic groups most of those IDPs belonged to and enquired whether the Government was giving high priority to addressing the situation.

36. He would welcome information on steps taken to ensure adequate training for security personnel; to universalize education; and to prevent discrimination against settlers. Lastly, he stressed the need to enhance the credibility and efficiency of the National Human Rights Commission through a transparent member selection process; to ensure adequate funding; and to see to it that the relevant administrative and judicial authorities implemented its recommendations.

37. Mr. AVTONOMOV asked the delegation to provide more information on the various laws introduced over the previous few years. It would be useful to know how the provisions of the Convention were reflected in the legislation and to have an opportunity to compare the text of relevant laws with that of the Convention.

38. While the adoption of legislation prohibiting the caste system was commendable, caste-based discrimination was often deeply entrenched in society, and education and awareness-raising activities were crucial to the eradication of such practices. The delegation should describe the measures taken to that end and explain how the Government intended to address the problem in the future. He wished to know why foreign men married to Nigerian women often encountered difficulties in obtaining citizenship, while simplified naturalization procedures existed for foreign women who married Nigerian men. It would also be useful to know what languages were used in radio and television broadcasts.

39. Mr. de GOUTTES asked the delegation to explain how, if at all, the provisions of the Convention had been incorporated into domestic legislation and to indicate whether the National Human Rights Commission had received any complaints of racial discrimination. He took it from the delegation's responses that the Public Complaints Commission had been disbanded. Should that indeed be the case, he wished to learn of the reasons for that decision. He would welcome information on measures taken to codify the types of conduct specified in article 4 of the Convention as criminal.

40. Given the numerous inter-ethnic and intra-ethnic clashes and the multitude of ethnic groups in the State party, it was somewhat surprising that the authorities had received no complaints of racial discrimination. Rather than being a positive sign, the paucity of complaints was often a result of victims' lack of awareness of their rights; their fear of social and other repercussions; their lack of confidence in the police and judicial authorities; or the authorities' lack of attention or sensitivity to cases of racial discrimination. The Committee would therefore welcome detailed information on measures taken to identify and prosecute acts of racial discrimination.

41. The Committee's attention had been drawn to the frequent use of excessive force against members of the Ogoni community by the police. Abuse, arbitrary arrests, violations of the Ogoni people's right to a healthy environment and activities that put their subsistence at risk also appeared to be commonplace. Other issues of concern included: trafficking in people, especially women and children; the situation of refugees from neighbouring countries; and the repatriation of Nigerian refugees from Cameroon. In the light of the sometimes violent inter-ethnic or interfaith clashes, the Committee was particularly concerned about the application of sharia law in several Nigerian states. He requested the delegation to comment on the aforementioned issues.

42. He also asked what measures had been taken to ensure that law enforcement officials received training in human rights.

43. Mr. TANG Chengyuan said that the measures taken by the State party to punish the arbitrary killing of civilians by police officers were commendable. He would be interested in specific examples of legal proceedings instituted against the perpetrators of such crimes. The Government had undertaken to conduct training programmes in human rights for members of the security forces and he encouraged it to take immediate measures to that end. He requested additional information on compensation for victims of human rights violations. The delegation should indicate what practical measures had been taken to implement legal guarantees of

equality and, in particular, to eradicate caste-based discrimination. In that connection, he encouraged the Government to implement the relevant recommendations made by the Committee.

44. Mr. LINDGREN ALVES said the assertion that the phenomenon of racial discrimination did not exist because inter-ethnic and intra-ethnic clashes in the State party mainly involved commercial interests and resource control was somewhat inappropriate. Economic interests were involved in most conflicts, but that did not automatically imply that such conflicts had no racial motivations. He wondered how the State party reconciled its statement relating to Nigeria's history of cohesiveness with the terrible conflict in Biafra. He asked how the Government defined indigenous peoples. According to the report, Nigeria was a secular, multi-faith society; the application of sharia law in parts of the country seemed somewhat inconsistent with that statement. Did the practice of stoning continue to exist?

45. Mr. THORNBERRY said that international law guaranteed the right of communities to participate in the use and management of natural resources present in their territory, irrespective of whether or not they were indigenous. In cases where the State retained ownership of certain resources, the affected communities must be consulted, must enjoy a share of the benefits accruing from the exploitation of those resources, and must be awarded adequate compensation for any damage or loss. He asked how those principles were reflected in State party practice with regard to the populations of the Niger Delta region, who suffered from the environmental effects of oil exploitation, and how those activities had affected education, employment and health. Had any efforts been made to promote reconciliation between the Ogoni people and the State authorities?

46. The adoption of legislation banning caste-based discrimination was a positive step and he would welcome information on specific cases where criminal sanctions had been imposed for such conduct. However, legislation must be supported by education and awareness programmes. The Committee's General Recommendation XXIX might assist the Government in identifying the phenomenon and formulating effective strategies to eradicate it.

47. While he appreciated States' concerns about the collection of data disaggregated by ethnicity, such information was crucial to identifying especially vulnerable groups. There was no hard and fast rule on the way in which data should be collected and the Committee encouraged creative solutions to the problem, including social surveys.

48. He asked the delegation to indicate the status of customary law, the Constitution and religious laws within national legislation.

49. Mr. BIN RIMDAP (Nigeria) said that no distinction was made between indigenous and non-indigenous peoples in Nigeria; all Nigerians were considered indigenous.

50. The Osu caste system, which had been established in colonial times, no longer existed.

The meeting rose at 1 p.m.