



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

Distr.: General
17 March 2010

Original: English

Committee on the Elimination of Racial Discrimination
Seventy-third session

Summary record of the 1880th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 30 July 2008, at 3 p.m.

Chairperson: Ms. Dah

Contents

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Sixty to seventeenth periodic reports of Togo

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3.15 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Sixth to seventeenth periodic reports of Togo (CERD/C/TGO/17; CERD/C/TGO/Q/17 and Add.1; HRI/CORE/1/Add.38/Rev.1)

1. *At the invitation of the Chairperson, the members of the delegation of Togo took places at the Committee table.*
2. **Ms. Aidam** (Togo), having thanked the Committee for allowing her country to submit a single document (CERD/C/TGO/17) comprising Togo's sixth to seventeenth periodic reports, explained that the reporting delay had been caused by a protracted social and political crisis lasting from 1990 to 2007. Economic sanctions imposed by the European Union in 1993 for Togo's insufficient commitment to democracy had further exacerbated the country's problems.
3. On 14 April 2004, Togo had entered into commitments intended to strengthen the democratic climate and rule of law, improve respect for human rights and normalize relations with the European Union. The national dialogue initiated by the Government in fulfilment of those commitments had culminated in the signature on 20 August 2006 of a Global Political Agreement, implementation of which had enabled legislative elections to be held on 14 October 2007. The establishment in 2006 of an Office of the United Nations High Commissioner for Human Rights (OHCHR) Country Office in Togo had helped to improve the human rights situation and had contributed to the success of the 2007 elections. The combined efforts of the Government and that Office had created the conditions for true national reconciliation.
4. Togo was working to fulfil its commitments under international human rights instruments, with support from OHCHR. The present report had been compiled by an inter-ministerial commission. Difficulties that may have affected the content of the report included the circumstances in the country during the reporting period, lack of resources, lack of expertise in drafting reports and lack of availability of relevant recent data.
5. Drawing attention to information contained in the written replies (CERD/C/TGO/Q/17/Add.1), she said that the process of incorporating into the Criminal Code a definition of racial discrimination in conformity with article 1 of the Convention was under way. The amended Criminal Code would include new penalties for discriminatory acts. Given the lack of prosecutions under article 59 of the Criminal Code, the amended Code would be the subject of a publicity campaign in order to ensure that individuals were aware that they could exercise their rights before the courts.
6. Discriminatory provisions in the Nationality Code and the Individuals and Family Code would no longer be applied, thus enabling women to transmit nationality to their children and to inherit in the same way as men. Planned amendments to the Criminal Code would institute criminal sanctions for continued discrimination in those areas.
7. The provisions of international instruments ratified by Togo always took precedence over those of domestic legislation. Provisions that only conferred rights on citizens were directly applicable and could be immediately invoked before the courts; the application of those that criminalized certain acts was subject to the amendment of domestic law in order that the appropriate criminal sanctions could be determined.
8. Given the acts of discrimination that had been committed in Togo's recent past, consultations were under way on the establishment of a Truth, Justice and Reconciliation Commission. The Office of the High Commissioner for Reconciliation and Strengthening

National Unity, established by Decree No. 2008-032/PR of 11 March 2008, would implement measures to combat racial discrimination.

9. Act No. 2005-004 of 9 February 2005, which amended Act No. 96-12 of 11 December 1996 on the membership, organization and functioning of the National Human Rights Commission (CNDH), had been adopted and promulgated. It ensured the independence of the National Human Rights Commission and thus fulfilled 1 of the 22 commitments the Government had made in its agreement with the European Union. In 2008, the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights had awarded the Togolese National Human Rights Commission A-status accreditation. In August 2001, CNDH had organized a workshop on the elimination of racial discrimination in the run-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. A subcommission on combating racial, ethnic and religious discrimination and harmful cultural practices existed within CNDH.

10. With the support of the United Nations Development Programme (UNDP), the Government had commissioned a study on ethnic tensions, the conclusions of which would be used in the work to establish a Truth, Justice and Reconciliation Commission. Analysis of the representation of ethnic groups in public administration had allowed the Government to propose solutions such as targeting trafficking in children and the low levels of girls' education in certain geographical areas. Measures taken included reductions in girls' school fees, the establishment of health centres and the adoption of an anti-trafficking law and a Children's Code.

11. Affirmative action policies were in place in order to redress disparities in the representation of ethnic groups in public administration and the army. For example, army recruitment competitions were held by region, with preference being given to locals, in order to create an army that was genuinely republican and apolitical in nature. Training on human rights and seminars on international humanitarian law had helped to change attitudes and behaviours. The media had contributed to awareness-raising efforts by broadcasting programmes intended to promote inter-ethnic tolerance.

12. Although the report had been compiled without input from NGOs, measures were in place to ensure that they were involved in the elaboration of future reports. With the assistance of Togo's development partners, notably France, the European Union and UNDP, a programme of measures to improve the judicial system, including through the modernization of legislation, was being rolled out. The Government was taking steps to improve training and human resources in the legal field by setting up libraries, organizing an annual competition for prospective magistrates and ensuring appropriate career progression for legal professionals, inter alia.

13. The Government was considering making a declaration in respect of article 14 of the Convention.

14. Efforts to raise awareness about human rights in schools had been hampered by the difficulties experienced by the country. Documents for the teaching of human rights had been drawn up and adopted by the Government. The electoral code was being disseminated in the interests of ensuring free, democratic and transparent elections.

15. The implementation of the commitments made on 20 August 2006, including instituting a code of conduct for ethical conduct by the media and prohibiting all forms of discrimination, had enabled free, democratic and transparent elections to be held peacefully in October 2007.

16. In order to further equal representation for women in the electoral process and in national civic life, a quota for women candidates had been imposed.

17. In 2008, a workshop had been organized for members of the inter-ministerial commission on techniques for drafting reports to the treaty-monitoring bodies. It had given participants a better understanding of the content of the treaties, of their own roles and responsibilities in the elaboration of periodic reports, of the importance of the Convention on the Elimination of All Forms of Racial Discrimination and of the need to take the Convention into account when elaborating national legislation.

18. Although significant improvements had been made since the submission of the report, much remained to be done before Togo could achieve its aim of becoming a model State. The Government's commitment to implementing human rights instruments was irreversible, however. She urged all development partners to support Togo in its march towards achieving human rights for its citizens.

19. **Mr. Kounte** (Togo) said that the prohibition of racial discrimination was a principle enshrined in international legal instruments to which Togo was party and in domestic legislation, including the Constitution. Racial discrimination in Togo was not based on skin colour, but took the form of tribalism and regionalism. The National Human Rights Commission (CNDH), of which he was President, worked to eradicate the problem by means of awareness-raising campaigns, the most recent of which had achieved satisfactory progress in freeing the elections from tribalism. The army had been opened to women as well as men and included representatives of all ethnic groups and all regions. Non-discrimination was the basis of social cohesion and national unity. The application of affirmative action policies was to be welcomed, but the ethnicity of a candidate must never override merit. The plight of people living with a disability in Togo deserved special attention. He asked the international community to continue to support his country, in particular with regard to the national reconciliation process.

20. **Mr. de Gouttes** (Country Rapporteur) said that while Togo had undergone a period of severe crisis, the size and high level of the delegation would seem to reflect its commitment to resuming effective dialogue with the Committee. He noted with satisfaction the convening in Togo in December 2007 of a regional expert seminar on the implementation of the Durban Declaration and Plan of Action and the road ahead to the Durban Review Conference in 2009.

21. He had based his analysis of the situation in Togo not only on the report (CERD/C/TGO/17) and the written replies (CERD/C/TGO/Q/17/Add.1), but also on the concluding observations of other expert bodies to which Togo had submitted reports during the reporting period and on studies made available by NGOs. The report was thorough on political and legislative developments in the country up to 1999, but lacked information covering developments for the latter part of the reporting period. The core document (HRI/CORE/1/Add.38/Rev.1) provided some of the necessary information about the demographic and ethnic composition of the country. The country's population was reported to stand at 6 million.

22. He welcomed the signature of the Global Political Agreement on 20 August 2006 and the elections held successfully on 14 October 2007. The re-engagement of international partners would henceforth depend on the country's capacity to undertake all the necessary reforms.

23. According to the report, the economic situation in Togo had deteriorated following the suspension of foreign aid in 1993 and the devaluation of the CFA franc in 1994. External debt weighed heavily on Togo and had necessitated re-engagement with the World Bank.

24. The report frankly admitted the gravity of the ethnic intolerance with which the country had grappled during its transition to democracy in the early 1990s and referred to the related "massacres, manhunts and population displacements". It was similarly frank in

admitting (paras. 202–208) that violent crime still existed, although many measures had been taken to tackle it. He asked why there had been no criminal prosecutions against the political leaders who had incited racial hatred in the past.

25. Noting that in July 2006 the Committee against Torture had highlighted poor conditions in the penal system, he expressed concern that a lack of resources and training was leaving judges unable to perform their duties properly and resulting in less than adequate preparation of prisoners for their return to society upon release. He also expressed concern about the lack of effective participation by citizens and the underrepresentation of women and some ethnic groups in the executive branch, the National Assembly and public institutions.

26. In May 2001, the Committee on Economic, Social and Cultural Rights had noted the existence in Togo of social discrimination based on ethnicity, especially between the peoples of the south and the north. Such discrimination could set off inter-ethnic violence. The Human Rights Committee and the Committee on the Elimination of Discrimination against Women had likewise expressed a number of concerns, which he shared. Problems with the press were acknowledged in the report, as was the prevalence of infectious diseases, exacerbated by lack of access to safe drinking water and the scarcity of health professionals.

27. Statistics that would give a more precise picture of the demographic and ethnic composition of the country were needed. He asked whether Togolese legislation included a definition of racial discrimination that was entirely compatible with article 1 of the Convention, whether the Convention numbered among those that could be applied immediately and whether its provisions could be invoked directly before national courts and tribunals in whole or in part. Had Togo had occasion to apply the regulation contained in article 7 of its Constitution, which prohibited all candidates from identifying themselves with an ethnic group or religion?

28. He would like to hear more about the activities of the Office of the High Commissioner for Reconciliation and Strengthening National Unity and the measures that were envisaged to alleviate ethnic tension, combat impunity and integrate the fight against racial discrimination into programmes adopted by the Government. The State party was to be congratulated on achieving A-status accreditation from the International Coordinating Committee of National Human Rights Institutions.

29. The statement that racial discrimination occurred very rarely in Togo (paragraph 176 of the report) seemed at odds with the frank recognition elsewhere in the report of ethnic tensions. He wished to know what the National Human Rights Commission had accomplished, what were the functions and composition of the Truth, Justice and Reconciliation Commission and when it would begin its work. He noted with satisfaction the measures taken to ensure that the country's ethnic groups were better represented in the civil service and the army.

30. Article 4 of the Convention did not seem to have been taken fully into account, particularly its prohibition of the financing of racist and propaganda activities. He wished to know the timetable for adoption of the reforms to the Criminal Code that would provide for a definition of racial discrimination.

31. He requested an update on complaints filed since the submission of the report. Had there been any prosecutions in relation to the “tendentious articles inciting to ethnic hatred and tribalism” referred to in paragraph 176 of the report? What was the role of the audio-visual media in inciting or combating ethnic tension?

32. Much of the copious information on the application of article 5 was general in nature. He asked whether the Government planned to remove all discriminatory provisions

from the Nationality Code in order to render it fully compatible with the Convention and what it planned to do to ensure fair participation in public bodies.

33. The information provided regarding child trafficking prosecutions was welcome, but further information on children forced to work as domestic labourers, criminal sanctions imposed and measures to provide protection and reparation for victims was needed. Additional information was also needed about the Peulhs, whom the written replies indicated were a nomadic people, and about land that formed “collective indigenous property” (paragraph 286 of the report). The measures being taken, with UNDP support, to modernize the justice system should be more fully explained.

34. He asked what measures the Government had taken to raise awareness of the recourse available to victims, given that no complaint had yet been registered either with the courts or with non-judicial institutions (paragraph 351 of the report). Did Togo plan to make a declaration under article 14 of the Convention in the near future? More detailed information about the national programme adopted in 2007 to raise public awareness of human rights, measures to include human rights in school curriculums and programmes broadcast by the media in order to promote tolerance would be welcome. Lastly, he asked why NGOs had not been involved in elaborating the report.

35. **Mr. Thornberry** said that the report painted a dramatic picture of ethnic conflict, and the State party deserved credit for its frankness. Togo’s response to the problem emphasized national unity, reconciliation and forgiveness and education. However, explosions of ethnic violence did not occur without a reason. The ideas of the politicians and media who had played a role in stirring up ethnic hatred would not have found resonance if ethnic tensions had not already existed. In that context, he asked whether the dominance of certain ethnic groups was considered to have been a factor and whether implementation of the 1998 Act on decentralization (paragraph 175 of the report) had eased or exacerbated ethnic tensions. He invited the delegation to comment in general on the relationship between national unity and decentralization in Togo: achieving national unity by utilizing the cultural richness of a diverse population was very different from suppressing local cultural manifestations.

36. He took issue with the reference in paragraph 357 to a world where borders and “racial, ethnic and linguistic differences” were “disappearing”; such differences were a fundamental facet of human existence, and the importance of cultural diversity was recognized by the United Nations Educational, Scientific and Cultural Organization (UNESCO) and other bodies. It was possible simultaneously to appreciate differences and condemn discrimination.

37. **Mr. Amir** said that ethnic conflict was a common theme in the reports from African States parties being received by the Committee, and was a lamentable constraint on development and growth. It was vital for Africa’s future that governments summon the political will to overcome ethnic tensions and build national unity. There was a marked contrast between what had been achieved by European countries, which had succeeded in putting aside their differences after the Second World War, and by Africa, which had failed to put aside ethnic differences. Africa needed to access peaceful conflict resolution that took account of countries’ shared membership of a single continent. Promoting democracy and freedom of expression would provide it with the means to develop the capacity for modernization, and so to overcome the ethnic tensions that were such a barrier to African development.

38. **Mr. Lindgren Alves** said that he had been perplexed by the statement in paragraph 148 of the report that racial discrimination “originated with African decolonization”: it had long existed. He agreed with Mr. Amir that national unity was consistently a subject of concern when the Committee considered reports submitted by African States parties. While

acknowledging the importance of the celebration of cultural differences, he said he believed that countries that had experienced events as tragic as those in Togo must do all they could to cultivate unity. Although the report was detailed, much of the information it contained was historical; he would appreciate a more up-to-date picture of the situation in the country.

39. **Mr. Diaconu** said that it was encouraging that Togo had a Minister for Human Rights, and all the more so that she was a woman. The Government seemed to be aware of problems with recruitment to the civil service and had a programme to redress those inequalities, but it also reported that no special measures were applied to protect particular groups of people, races or ethnic groups (paragraph 150 of the report). It seemed likely that the programme just mentioned might include just such special measures – and if it did not, it should.

40. The definitions of racial discrimination contained in the Constitution and the Criminal Code seemed to correspond only partially to the requirements of article 4. Specifically, the provisions referred to in paragraphs 168 and 169 of the report did not amount to a declaration of the illegality of discrimination. He requested additional information about the status of indigenous peoples in Togo and about the language(s) of instruction in the educational system. The elimination of racial discrimination was an ideal to aspire to, but it was extremely difficult to achieve. Consequently, the Committee was never inclined to accept assertions that there was no racial discrimination in a country.

41. **Mr. Peter** asked why the written replies contained population data from 1981 when more recent figures were available elsewhere. He agreed that the delegation should elaborate on the statement in paragraph 148 that “racial discrimination originated with African decolonization”. He asked for clarification of any restrictions on how long a president could remain in office. Although the monetary incentives for school attendance were to be welcomed, he wished to know what was being done to overcome cultural barriers to girls’ education. Lower entry criteria for girls might be a way of increasing their access to university education, thus righting a historical wrong.

42. Had Togo’s position on the appropriateness of the death penalty remained unchanged? He expressed astonishment that a foreign girl under the age of 18 could marry a Togolese and acquire citizenship without her parents’ permission (paragraph 249 of the report). Could a foreigner who married a Togolese girl under the age of 18 (para. 250) acquire citizenship by so doing? It was surprising that a minor could be deemed able to consent to be married (para. 252), particularly in the light of Togo’s ratification of the African Charter on the Rights and Welfare of the Child, which declared everyone under 18 years of age to be a minor.

43. He requested clarification of the Government’s position on the customary rules on inheritance (para. 256) and of what it was doing to remedy the serious discrimination against girls that they entailed. Did the Constitution prohibit such discrimination? If so, did the Constitution or the customary rules take precedence?

44. **The Chairperson** invited the delegation to prepare its replies, which the Committee would consider at its next meeting.

The meeting rose at 5.30 p.m.