



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

Distr.
GENERAL

CERD/C/YEM/CO/16
19 October 2006

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Sixty-ninth session
31 July-18 August 2006

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

YEMEN

1. The Committee considered the fifteenth and sixteenth periodic reports of Yemen, submitted in one document (CERD/C/YEM/16), at its 1764th and 1765th meetings (CERD/C/SR.1764 and CERD/C/SR.1765), held on 3 and 4 August 2006. At its 1784th meeting (CERD/C/SR.1784), held on 17 August 2006, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the report submitted by the State party and expresses its appreciation for the extensive responses provided to the questions asked during the consideration of the report, and for the open and constructive dialogue with the delegation. The Committee regrets, however, that the report does not contain sufficient information regarding the practical application of the Convention.

B. Positive aspects

3. The Committee welcomes the establishment of the Ministry of Human Rights in 2003.

4. The Committee notes with satisfaction the adoption of a policy of continuing education and awareness-raising programmes for members of the judiciary, the Department of Public Prosecutions and law enforcement officials.

5. The Committee welcomes the efforts made by the State party to establish a national human rights institution in accordance with the Principles relating to the status of

national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex).

6. The Committee commends the efforts of the State party to reduce poverty, including in particular the adoption of the National Poverty Reduction Strategy for 2003-2005, the purpose of which is to improve the living conditions of marginalized groups and vulnerable people within Yemen.

7. The Committee also notes with appreciation the regularity in the submission of reports by Yemen, in compliance with the requirements of the Convention.

C. Concerns and recommendations

8. The Committee takes note of the discrepancy between the assessment of the State party, according to which Yemeni society is ethnically homogenous, and credible information the Committee has received regarding descent-based and/or culturally distinguishable groups including the Al-Akhdam.

In light of its general recommendation 4 (1973) as well as of paragraph 8 of its reporting guidelines, the Committee reiterates its recommendation to the State party that information on the ethnic composition of the population be provided in its next periodic report. It also recalls its general recommendation 8, which states that identification of ethnic or racial groups shall, if no justification exists to the contrary, be based upon self-identification by the individual concerned, and draws the attention of the State party to general recommendation 29 (2002) on article 1 (1) of the Convention, regarding descent.

9. The Committee remains concerned at the absence of a definition of racial discrimination in domestic legislation (art. 1).

The Committee recommends to the State party that it incorporate in its domestic law a definition of racial discrimination that includes all elements set forth in article 1 of the Convention, which defines racial discrimination as discrimination on the grounds of race, colour, descent or national or ethnic origin.

10. The Committee notes with concern that the status of the Convention in domestic law is unclear and that the Convention apparently has never been directly invoked in domestic courts.

The Committee invites the State party to take all necessary steps to ensure the effective implementation of the Convention in its domestic legal order.

11. The Committee reiterates its concern about the absence of comprehensive legislation to prevent and prohibit racial discrimination on the grounds of race, colour, descent or national or ethnic origin (art. 2).

The Committee urges that the State party take all necessary and appropriate measures to extend full protection from racial discrimination to all persons, irrespective of their race, colour, descent or national or ethnic origin. In this regard, the Committee recommends that the State party strengthen its domestic

legislation and put in place a comprehensive anti-discrimination legal regime according to the requirements of article 2 of the Convention.

12. While taking note of the provisions contained in the Penal Code prescribing penalties for offences involving discrimination and acts of violence, the Committee reiterates its concern regarding the absence of any explicit penal provision in Yemeni domestic law that criminalizes and punishes the full range of conduct and activities proscribed by article 4 of the Convention.

The Committee reiterates its recommendation that the State party revise its Penal Code in order to introduce specific legislation and fully implement the provisions of article 4. The Committee also draws the attention of the State party to its general recommendation 15 and recommends that it take effective steps to ensure the effective enforcement of such legislation.

13. The Committee notes that Yemen has not yet withdrawn its reservation to article 5 (c) and (d) (iv), (vi) and (vii) of the Convention.

The Committee reiterates its recommendation that the State party consider withdrawing its reservation to article 5 (c) and (d) (iv), (vi) and (vii) of the Convention.

14. While welcoming the open door policy of the State party towards refugees coming from the Horn of Africa, the Committee is concerned about the absence of national legislation specifically defining the rights of refugees. Furthermore, it is also concerned about the poor living conditions and the reported lack of access refugees have to education, employment, health care and protection from physical abuse and maltreatment (art. 5).

The Committee draws the attention of the State party to general recommendation 30 on non-citizens (2004), and requests the State party to adopt a legislative protection framework for refugees and to remove obstacles that prevent the enjoyment of refugees of economic, social and cultural rights, notably in the areas of education, employment and health. It also recommends that the State party investigate thoroughly, impartially and effectively all reported allegations of physical abuse and maltreatment of refugees, bring those responsible to justice, and provide adequate remedies and compensation to the victims.

15. The Committee is deeply concerned at the persistent reports of de facto discrimination against descent-based, culturally distinct communities, among others, the Al-Akhdam. The Committee is particularly concerned about discrimination that interferes with or impairs the enjoyment of their economic, social and cultural rights (arts. 2 (2) and 5).

In light of its general recommendation 29, the Committee recommends that the State party develop and put into action a national strategy with the participation of members of affected communities, including special measures to be adopted in accordance with article 2 (2) of the Convention, in order to eliminate discrimination against members of marginalized and vulnerable descent-based groups. In particular, the Committee recommends that the State party develop legislation and practice prohibiting all discriminatory practices based on descent in employment, housing and so as to ensure equal access to health care and social

security services for members of affected communities, in particular the Al-Akhdam.

16. The Committee notes with concern reports it has received that indicate that members of the Al-Akhdam community allegedly face difficulties in, if not outright barriers to, effectively exercising their right to own property (art. 5 (d) (v)).

The Committee requests the State party to provide further information regarding the right of all persons within its territory, including members of marginalized or vulnerable groups to obtain and own property.

17. While noting that the Human Rights Ministry has received over 1,200 complaints between 2002 and 2004 regarding violations of rights, the Committee notes the absence of complaints involving racial discrimination (art. 6).

The Committee requests that the State party include in its next periodic report statistical information on prosecutions launched, and penalties imposed, in cases of offences which relate to racial discrimination, and where the relevant provisions of the existing domestic legislation have been applied. 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, or of a lack of awareness of the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute. The Committee requests the State party to ensure that appropriate provisions are available in national legislation, and to inform the public about all legal remedies in the field of racial discrimination.

18. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and urges it to consider doing so.

19. The Committee recommends that the State party continue to take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2-7 of the Convention, and that it include in its next periodic report information on further action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

20. The Committee recommends the State party to ratify the International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families.

21. The Committee encourages the State party to continue providing awareness-raising training programmes for members of the judiciary, law enforcement officers, teachers, social workers and other public officials on the provisions of the Convention.

22. The Committee recommends that the State party continue consulting and expanding its dialogue with organizations of civil society working in the area of combating racial discrimination in connection with the preparation of the next periodic report.

23. The Committee recommends that the State party's reports be made available to the public from the time they are submitted and that the observations and recommendation of the Committee on these reports be similarly publicized.

24. The State party should within one year provide information on the ways it has followed up on the Committee's recommendations contained in paragraphs 13, 14 and 15 above pursuant to paragraph 1 of rule 65 of the rules of procedure.

25. The Committee recommends that the State party submit its seventeenth periodic report jointly with its eighteenth periodic report in a single report by 17 November 2009, and that it address all points raised in the present concluding observations.

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