



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Seventy-eighth session

14 February – 11 March 2011

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 seventeenth and eighteenth periodic reports of Yemen, submitted in one document (CERD/C/YEM/17-18), at its 2069th and 2070th meetings (CERD/C/SR.2069 and CERD/C/SR.2070th), held on 25th and 28th February 2011. At its 2086th meeting (CERD/C/SR. 2086), held on 10 March 2011, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the report submitted in time by the State party and expresses its appreciation for candid oral responses provided during the consideration of the report. The Committee also welcomes the large and high-level delegation that presented the State party's report.

3. The Committee also welcomes the State party's willingness to engage in dialogue during a time when the State party is experiencing domestic political challenges. The Committee urges the State party to respect the rights of all protesters to voice their concerns, seek reform and demonstrate peacefully. The Committee urges the State party to ensure that the current political situation in the State party does not foment further violence that targets groups particularly non-citizens, migrant populations, migrant workers, refugees and other vulnerable ethnic groups.

B. Positive aspects

4. The Committee welcomes the breadth of the legal instruments, both domestic and international, which the State party has implemented or ratified that relate to the protection of human rights.

5. The Committee welcomes the amendment of legislation in order to address discrimination in the State party, particularly the amendment of the Nationality Act (Act No. 6 of 1990), which now allows Yemeni women that are married to foreigners to pass on their nationality to their children.

6. The Committee welcomes the establishment of a Commission that was set up pursuant to the Council of Ministers Decree No. 29 of 2004, which is mandated to study national legislation with a view to determining its consistency with international human rights treaties ratified by the State party.

C. Concerns and recommendations

7. The Committee takes note of the various efforts made by the State party to bring its national legislation, such as the Police Act, in line with international human rights treaties that it has ratified, but regrets that the State party has not yet adopted a definition of racial discrimination that is in line with the Convention. (art. 1)

The Committee recommends that the State party ensure that it incorporates into national law a definition on racial discrimination that is in line with the Convention.

8. The Committee takes note of the efforts by the State party to establish a national human rights institution, but regrets that since the consideration of its previous report, the State party has been slow to take effective measures to establish this institution (art. 2).

The Committee recommends that the State party expedite its efforts to establish a national human rights institution in accordance with the Paris Principles (General Assembly resolution 48/134, annex).

9. The Committee is concerned that the State party continues to view its country as a homogeneous society despite the existence of numerous national and ethnic groups. The Committee also regrets the lack of disaggregated statistical data on the ethnic and racial composition of the population considering the existence of the diversity of ethnic and racial groups in the State party (art. 2).

Further to its previous concluding observations (CERD/C/YEM/CO/16) and general recommendation No. 4 (1973) on the demographic composition of the population, the Committee reiterates its recommendation that the purpose of gathering statistical data is to make it possible for States parties to identify and obtain a better understanding of the ethnic groups in their territory and the kind of discrimination they are or may be subject to, to find appropriate responses and solutions to the forms of discrimination identified, and to measure progress made. The Committee also recommends that the State party formally recognize the existence of various ethnic groups within its territory and the fact that the State party is not a truly homogeneous society.

10. While noting that Sharia is the source of all law in the State party, the Committee regrets the lack of information on the application of Sharia law and guarantees that it is not applied to foreigners and non-Muslims without their consent (art. 2).

The State party should ensure that the application of Sharia law is consistent with the obligations that it has undertaken under international law particularly under the Convention. The Committee recommends that the State party take effective measures to ensure that Sharia law is not applied to foreigners and non-Muslims without their consent.

11. The Committee is concerned at the lack of statistical data in the State party report on the prosecution of cases involving racial discrimination (art. 4)

Bearing in mind general recommendation No. 31 (2005), the Committee recommends that the State party compile, and include in its next period report, disaggregated statistical data on all prosecutions conducted involving racial discrimination.

12. The Committee reiterates its concern expressed in its previous concluding observations (CERD/C/YEM/CO/16) with regard to the absence of any explicit penal provision in national legislation that criminalizes and punishes the conduct and activities proscribed by article 4 of the Convention such as the propaganda and the dissemination of ideas based on racial superiority. The Committee further regrets the lack of statistical data on the prosecution of cases involving racial discrimination (art. 4).

The Committee reiterates the recommendation made in its previous concluding observations (CERD/C/YEM/CO/16) that the State party should revise its Penal Code in order to introduce specific legislation dealing with conduct that is proscribed by article 4 of the Convention. In this regard, the Committee also draws the attention of the State party to its general recommendation No. 15 (1993) on article 4 and reminds the State party of its obligation to ensure that such legislation is effectively enforced.

13. The Committee recalls its previous concluding observations (CERD/C/YEM/CO/16) and notes with concern that the State party has not yet withdrawn its reservations to article 5(c) and (d) (iv), (vi) and (vii) of the Convention, which provisions, inter alia, provide for the right to participate in elections, the right to marriage and choice of spouse, the right to inherit, and the right to freedom of thought, conscience and religion (art. 5).

The Committee expresses the belief that a reservation to article 5 has the effect of negating the core purposes and objectives of the Covenant. The Committee, therefore, reiterates the recommendation made in its previous concluding observations (CERD/C/YEM/CO/16) that the State party should consider withdrawing its reservation to article 5 (c) and (d) (iv), (vi) and (vii) of the Convention, which provisions, inter alia, provide for the right to participate in elections, the right to marriage and choice of spouse, the right to inherit, and the right to freedom of thought, conscience and religion. The Committee expresses the hope that the State party will thoroughly examine the reservations and understand the need to withdraw them in order to give full effect to its obligations under the Convention.

14. While noting the challenges presented by the influx of refugees and asylum-seekers into the State party, the Committee regrets the lack of legislation governing asylum applications. The Committee is also concerned at the lack of recognition of refugee certificates that are issued by the Office of the United Nations High Commissioner for Refugees (UNHCR) in the State party. The Committee is further concerned about the plight of internally displaced persons (IDPs) in various governorates of the State party (arts. 2 and 5)

The Committee recommends that the State party establish a legal framework to govern the application process of asylum. The Committee further recommends that the State party adopt specific measures aimed at promoting the coordination of the process of issuing refugee certificates with UNHCR in order to ensure that their

certificates are recognized and that the rights of refugees and asylum-seekers are protected. The Committee further recommends that the State party strengthen its efforts in the provision of humanitarian assistance to IDPs and ensuring their immediate return to their communities.

15. While noting the State party's efforts to introduce safety net programmes aimed at improving the livelihoods of marginalized groups, the Committee is concerned at the persistent and continued social-economic exclusion of descent-based communities such as the Al-Akhdam, some of whom are understood to be of African descent. The Committee also expresses its concern at the failure by the State party to acknowledge that the Al-Akhdam have different ethnic characteristics (arts. 2, para. (2) and 5).

Bearing in mind its general recommendation No. 29 (2002) on Descent, the Committee recommends that the State party study the root causes of the marginalization of the Al-Akhdam people. The Committee further recommends that the State party strengthen its efforts to improve the welfare of all marginalized and vulnerable descent-based groups, particularly the Al-Akhdam, in the fields of education, access to health, housing, social security services and property ownership.

16. While taking note of the State party's statement on its efforts to protect the rights of Jews and Bahai's, the Committee notes with concern that these minority religious groups are often subjected to threats that affect their right to freely practice their religion (arts. 2 and 5).

The Committee, recognizing the "intersectionality" of racial and religious discrimination, recommends that the State party ensure that the rights of religious minorities, particularly Jews and the Baha'is, to freely practice their religion, are protected by guaranteeing their security and freedom of worship at all times.

17. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular treaties the provisions of which have a direct bearing on the subject of racial discrimination, such as the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

18. In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the Outcome Document of the Durban Review Conference, held in Geneva in April 2009, when implementing the Convention in its domestic legal order. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

19. The Committee recommends that the State party undertake and publicize adequately an appropriate programme of activities to commemorate 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly in its resolution 64/169 of 18 December 2009).

20. The Committee expresses great concern at the lack of information from non-governmental organizations (NGOs) on the State party's efforts and challenges in implementing the Convention. The Committee wishes to underscore the importance that it attaches to reports that are submitted by NGOs, which enrich the dialogue between the Committee and the State party delegation during the consideration of State party's reports. The Committee recommends that the State party continue consulting and expanding its dialogue with organizations of civil society working in the area of human rights protection,

in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

21. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, 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 of 16 December 1992. In this connection, the Committee cites General Assembly resolutions 61/148 and 63/243, in which the General Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

22. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

23. Noting that the State party submitted its core document in 2001, the Committee encourages the State party to submit an updated version in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth inter-Committee meeting of the human rights treaty bodies held in June 2006. (HRI/MC/2006/3)

24. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present conclusions, on its follow-up to the recommendations contained in paragraphs 9, 13 and 14 above.

25. The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 7, 8, 10 and 15 and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

26. The Committee recommends that the State party submit its nineteenth and twentieth periodic reports in a single document, due on 17 November 2013, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (see harmonized guidelines for reporting contained in document HRI/GEN.2/Rev.6, para. 19).
