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of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-second session

SUMMARY RECORD OF THE 1562nd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 7 March 2003, at 3 p.m.

Chairman: Mr. DIACONU

CONTENTS

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

Second to tenth periodic reports of Uganda

GENERAL DEBATE (continued)

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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 (agenda item 5) (continued)

Second to tenth periodic reports of Uganda (CERD/C/358/Add.1 and CERD/C/71/Add.2; A/46/18; HRI/CORE/1/Add.69)

1. At the invitation of the Chairman, the members of the delegation of Uganda took places at the Committee table.
2. Mr. BUTIME (Uganda), introducing the State party's tenth periodic report (CERD/C/358/Add.1), apologized for the delay, which was not due to any lack of commitment on Uganda's part to its international obligations. Uganda had ratified the Convention on the Elimination of All Forms of Racial Discrimination in 1980. The Ugandan Constitution of 1995, which was based on respect for international law and treaty obligations, had incorporated the provisions of the Convention with a view to ensuring the protection and promotion of fundamental human rights and freedoms. He discussed some of the Constitution's most important features, which were set out in greater depth in Uganda's tenth periodic report.
3. Reviewing Uganda's legal system, he said that the judicial process was open to all persons and was easily accessible. The informal court system of local councils heard cases at the lowest level. Both nationals and foreigners could take part in the election of the committee that established those courts. The formal court system, comprising the Magistrates Courts, the High Court and the Supreme Court, was likewise open to all. The Human Rights Commission and its Tribunal offered another form of legal redress to persons who felt that their rights had been violated or that they had been discriminated against. Everyone was entitled to hold office at local council, district and parliamentary levels, although some minority groups were too small to elect their own representatives. That was an area which the Government intended to address.
4. The Government had taken a number of measures to ensure that all persons and racial groups could take an active part in the development of the economy. Following the 1982 Expropriated Properties Act and its 1993 Regulations, most Asians had recovered their properties and had received compensation. Uganda currently had a vibrant Indian business community. Foreign investors from many countries benefited from tax exemptions and other incentives. The right to own property was guaranteed under article 26 of the Constitution.
5. In line with article 2 of the Convention, Uganda encouraged multiracial organizations aimed at eliminating barriers between races and discouraging racial division. Various cultural associations had been created and were operating freely. Everyone had access to education and to health and medical facilities. Under the Government's liberal approach to education, non-nationals had created schools and medical facilities. Indian schools and hospitals as well as an international school were open to all. The 1998 National Citizenship and Immigration Act had introduced a procedure for issuing foreigners work permits for up to three years. Information was available for those who wished to acquire Ugandan citizenship.

6. Uganda had an affirmative action plan for marginalized groups aimed at redressing certain historical imbalances. The Ministry of Justice had a Human Rights Desk which heard complaints of violations of human rights. Political leaders and representatives of the various ethnic communities could express their opinions freely and without fear on any of Uganda's many radio and television stations. There were also hundreds of non-governmental organizations (NGOs) active in Uganda.
7. The legal framework for ensuring compliance with the provisions of the Convention was thus in place, but much still remained to be done in the legal and educational spheres. Ugandans must be made aware that they could have recourse to the law, which was there to protect them. The Government was not in a position to provide free legal services, but the Advocates Act had been amended to require lawyers to offer pro bono services in some cases. The Government was doing its best to ensure that human rights became an integral part of its policies at all levels. It was working to promote a human rights culture among all citizens and to discourage intolerance, revenge, prejudice and discrimination.
8. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) noted that Uganda's tenth periodic report was a consolidation of nine periodic reports, the initial report having been drafted in October 1983. It was unfortunate that Uganda had not complied with its reporting obligations under the Convention; he hoped that it would be able to do so in the future.
9. He first reviewed Uganda's demographic and ethnic make-up and its current difficult economic situation. With regard to the judicial system, he took note of the informal system of local councils and asked whether such bodies could hear cases involving racial discrimination or at least investigate such allegations. Assuming they did not have to refer such cases to formal courts but could hand down sentences themselves, did the sentences have to be upheld by the formal courts?
10. A new Constitution had been adopted in 1995, but it restricted freedom of association and assembly, and although political parties were permitted, they could not function unhindered. Welcoming the establishment, pursuant to article 51 of the Constitution, of a Human Rights Commission (para. 34), whose functions contrasted with the Government's previous inaction, he asked whether any provision was made for including representatives of ethnic minorities in the Commission and whether that body monitored implementation of the Convention. He noted that none of the Commission's numerous publications had made any reference to the Convention, and he therefore sought further information on which of that body's activities were specifically designed to combat racial discrimination and tribalism.
11. The basic principles of the Convention were incorporated in article 21 of the Constitution, which showed the Government's determination to fight racial discrimination. But international instruments, including the Convention, were not directly applicable in the courts or with the administrative authorities. Uganda should pass legislation allowing the provisions of the Convention to be directly invoked and applied by the courts. Although the Constitution prohibited racial discrimination, the Government must have the political will to implement that provision, especially in connection with ethnic minorities.

12. According to Human Rights Watch 2001, 7,000 persons had been murdered and 150,000 persons displaced as a result of inter-ethnic clashes in 1999. Uganda had allegedly intervened in the Democratic Republic of the Congo on the side of Congolese rebels and had been accused of involvement in acts of “ethnic cleansing”. Amnesty International had expressed concern about the safety of civilians in the region of Ituri, in north-eastern Congo. The intervention by Ugandan and Rwandan troops in Kisangani in June 2000 had resulted in the deaths of thousands of civilians and the destruction of homes, schools and other public buildings. Uganda and Rwanda had failed to comply with Security Council resolution 1304 (2000), which had urged them to make reparations for the loss of life and the property damage they had inflicted on the civilian population in Kisangani. Although Uganda had withdrawn most of its troops, small contingents had remained in border areas.

13. Domestic strife was no excuse for violating the Convention. The 2000 and 2001 reports of Human Rights Watch and the 2002 report of the State Department had referred to the campaign of terror, murder and pillaging conducted by Uganda’s armed forces, and the Lord’s Resistance Army in particular, against civilians in the north and the violations of the rights of members of the Acholi tribe, above all in the districts of Gulu and Kitgum. Abuses had also allegedly been committed against members of the Bakonjo and Bamba tribes in the west by the rebel group Allied Democratic Forces. Although the number of such violations had apparently diminished, children were still abducted and used as soldiers or sexually abused. He asked the delegation to comment on those allegations.

14. Following the period of widespread violations of human rights between 1971 and 1979 under the military regime of Idi Amin, the Government had taken a number of important measures to help persons who had been expelled to return to Uganda and recover their property. But the report admitted that many former owners had not been able to repossess their properties due to insecurity and lack of proper administrative measures (para. 31). He asked whether any new measures were planned to compensate the victims of the expulsions and deal with the increasing number of claims for compensation.

15. In its Concluding Observations on Uganda’s initial report (CERD/C/71/Add.2), the Committee had drawn the State party’s attention to the serious consequences of tribalism and other forms of intolerance (A/46/18, para. 336). He sought further information on the multiracial workforce in the public and private sectors referred to in paragraph 40 of the report. According to paragraph 49, Uganda’s political institutions were composed of people from all racial and ethnic backgrounds; could the delegation provide percentages for each of those racial and ethnic groups? He would also like to know what measures had been taken in favour of groups marginalized on the basis of gender, age or for any other reason to redress existing imbalances (para. 53).

16. Concerning the implementation of article 3 of the Convention, he said that the Committee’s General Recommendation XIX, paragraph 3, was of relevance to the situation of certain ethnic minorities in Uganda when it stated that in many cities residential patterns were influenced by group differences in income, which were sometimes combined with differences of race, colour, descent and national or ethnic origin, so that inhabitants could be stigmatized and individuals could suffer a form of discrimination in which racial grounds were mixed with other grounds.

17. With regard to implementation of article 4 of the Convention, he asked whether any cases had been heard pursuant to article 42 A of the 1988 Penal Code Act and whether articles 55, 56 and 57 of the Penal Code, which defined the offence of leading or maintaining an illegal organization, covered the propagation of racial hatred, as required by article 4 (b) of the Convention. According to article 57 of the Penal Code, prosecution of that offence could be initiated only with the approval of the prosecutor's office. He therefore sought further information on the scope of those provisions and in particular on how they ensured compliance with article 4 of the Convention.

18. As to implementation of article 5, he asked how the force referred to in paragraph 68 ensured the security of minority groups. Further information was needed on the implementation of economic, social and cultural rights, on which the report said little. According to Minority Rights Group International, no studies existed on employment, and unemployment figures for the various ethnic minorities were very out of date. It would also be useful to have more data on how and to what extent persons from the various ethnic groups, particularly those in the northern and eastern areas, which had been badly affected by the long period of insecurity, had benefited from the Housing Finance Company established to provide credit for housing (para. 78).

19. Despite the Government's praiseworthy efforts to promote health care and social security, many people in the districts of Gulu and Kitgum still did not fully enjoy those rights because of the military conflict there. According to Minority Rights Group International, access to health care was still very limited, although the latest data indicated an increase in the number of doctors in rural areas. The Government should continue to give special attention to those problems, and in particular to the fight against AIDS.

20. He appreciated the Government's efforts to improve the educational system (paras. 86 and 87). But as access to primary school was limited to four children per family, children from larger families could not always enrol. The report of Minority Rights Group International noted that the majority of children, and those from minority groups in particular, did not attend school. The situation with regard to access to education, health care and social services was especially critical for the children of refugees and displaced persons.

21. There had been a fundamental improvement in the participation of women in government. However, the Committee for the Elimination of Discrimination against Women had noted in its concluding observations that they still suffered discrimination in the field of inheritance, and that gender discrimination persisted in rural areas. The conflicts in the north and east had destroyed the country's social fabric, and it was difficult to ensure respect for human rights in such a context. While victims of human rights violations were able to seek remedies, compensation was granted only through civil cases. Had the Human Rights Commission investigated cases of racial discrimination? Could it do so on its own initiative, or was a formal complaint required from the injured party?

22. The Government, the Human Rights Commission and other bodies carried out a wide range of human rights education activities, including some in the languages of various ethnic groups, and the press disseminated information on human rights instruments. It was important that the State party should publish its report to the Committee and the Committee's concluding observations, at least in the most frequently spoken languages. Prior to the Durban World

Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the Government had issued a National Declaration of Commitment to Eradicate Racism, Racial Discrimination, Xenophobia and Related Intolerance in Uganda that set out the steps it intended to take against tribalism and regionalism and included a call for governmental and parliamentary action. Its main themes were still extremely topical. The delegation should bring the Committee up to date on the activities undertaken to fulfil the National Declaration's objectives.

23. Mr. PILLAI welcomed the resumption after some 20 years of a dialogue between the State party and the Committee, and highlighted the establishment of the Uganda Human Rights Commission, a body very well regarded for its sincerity and commitment, as a major step forward for the promotion and protection of human rights. The Commission interacted directly with the Government at various levels. Civil society organizations too played an important role in promoting human rights in Uganda. The Government had recently shown an impressive openness to the scrutiny of United Nations human rights mechanisms such as working groups and special rapporteurs.

24. The report consisted mainly of a list of constitutional and legal provisions, and lacked information on the practical implementation of measures taken against racial discrimination. While it referred extensively to the comments of the Uganda Human Rights Commission, it offered little information on how the Government perceived the situation or how it intended to follow up on the Commission's recommendations. The Committee would be grateful for more information on measures taken to sensitize and train government functionaries. How had the opening of the economy to free market forces influenced the situation of the poor, especially in rural areas?

25. According to the report, Uganda had a dual court system, as informal courts had been established in 1987 and the formal judicial system had been established by the Constitution. The delegation should explain how the two systems interacted and what mechanisms resolved any conflicts that arose between them. The report also referred to political education programmes that reduced ethnic tension and promoted national unity and Pan-Africanism. What were the contents of those programmes, and who implemented them? What had their impact been on the human rights education programmes implemented by other agencies and organizations?

26. Mr. THIAM emphasized the State party's strong economic indicators in recent years, which he found all the more impressive in the light of the economic and social difficulties currently faced throughout Africa, and commended Uganda for its exemplary efforts to combat poverty and infectious diseases, in particular HIV/AIDS.

27. While the report highlighted the country's ethnic diversity, it provided no statistical breakdown of the population by ethnic group. Such statistics could have been very useful to the Committee when it assessed the efforts taken to comply with article 2 of the Convention. The report mentioned that a repossession and compensation process had been undertaken for foreigners whose property had been expropriated under the Government of Idi Amin. The exposure of the cases of discrimination that had been justified as legal in 1972 could serve as a model for many countries. The State party reported that there had been 626 applications for compensation, and that US\$ 3 million worth of claims had been settled. The delegation should clarify whether that meant that all claims had been fully settled, or whether some had been

refused or were still pending. Had any concrete steps been taken to compensate the former owners who had not been able to repossess their property due to insecurity and a lack of proper administrative measures? In respect of article 2 of the Convention, had any legislative or regulatory measures been taken in support of the political education mobilization programmes undertaken by the Government?

28. The provisions of the Penal Code apparently did not cover all the measures set out under article 2. He welcomed the establishment of the Karamoja Development Agency and the Northern Uganda Reconstruction Programme, and asked whether there was a risk that the institution of traditional or cultural leader could be abused so as to prompt specific ethnic sentiments that could lead to discrimination. Were there any safeguards against such possibilities? The report stated that all persons were equal before and under the law. Did that provision cover foreign nationals? Were foreigners entitled to vote and be elected in Uganda? The delegation should provide information on political parties, and especially opposition parties. What guarantees were there for the freedoms of opinion, expression, conscience and association, and for the right to vote? What status did the Convention have in the Ugandan legal system? Could it be invoked directly before Ugandan courts? What criteria applied to persons wishing to obtain Ugandan nationality through naturalization, and what effect did naturalization have on the exercise of political rights?

29. It would be useful for the delegation to describe in detail the Ugandan judicial system, in particular with regard to procedures, appeal mechanisms, and guarantees of judicial independence. What specific competence did the Uganda Human Rights Commission have? Was it able to investigate and issue rulings in cases of racial discrimination?

30. Mr. THORNBERRY asked, in view of the ethnic complexity of the country, whether the Human Rights Commission had taken any steps to define the concept of “minority”. Was there an appreciation of cultural diversity in Uganda? He detected, from the documentation submitted by the Uganda Human Rights Commission, a sentiment that pluralism necessarily entailed complications. How could diversity be valued without giving rise to a policy of assimilation? The report’s description of the “Movement” political system contained elements of both unity and diversity. In practical terms, how did the educational system that was programmed encourage national unity and ethnic integration in a multi-ethnic context?

31. He expressed concern about the Batwa people, who had reportedly been evicted from forest-dwelling areas for the creation of national parks, and drew the attention of the delegation to General Recommendation XXIII on Indigenous Peoples, that set out the Committee’s position in respect of the rights of such peoples who were displaced. Could the delegation comment on some reports that portrayed the plight of the Batwa as serious, almost as if they were about to disappear entirely? The Constitutional Review Commission was reportedly addressing the situation of the Batwa. Would those efforts be associated at all with the work of the African Commission on Human and Peoples’ Rights or the newly established United Nations Permanent Forum for Indigenous People? The delegation might comment on the use of terms such as “minority” and “indigenous people” in Uganda. The definition of such terms by the international community was an ongoing process that required clarification and input from all sides.

32. Mr. HERNDL, noting that according to the core document the various human rights instruments were not directly enforceable by the courts or other administrative authorities, asked whether any steps had been taken to transfer the provisions of the Convention into domestic law, either individually or generally. The Penal Code apparently included sufficient provisions to implement article 4 (a) of the Convention, but not article 4 (b), which prohibited organizations that promoted racial hatred. Were there any plans to adopt such a provision? Lastly, he called on the State party to ratify the amendment to article 8 concerning the financing of the Committee's activities and to make the declaration under article 14 of the Convention recognizing the Committee's competence to hear individual cases.

33. Mr. de GOUTTES asked for information on the ethnic breakdown of the country, including population statistics and the number of people of each ethnic group employed in the public administration. Although article 42 A of the Ugandan Penal Code contained provisions that made racism and incitement to racism crimes, it was not sufficiently comprehensive to respond to all the requirements of article 4 of the Convention. He enquired what the penalty was for racial violence and for participation in racist organizations. As always, it would be useful to have practical examples, including actual cases that had been brought before the courts, of the application of such provisions.

34. According to paragraphs 34, 35 and 91 of the report, the Uganda Human Rights Commission was competent to receive complaints of human rights violations. The delegation should provide indications as to the number of complaints made and how many had involved racial or ethnic discrimination. Instructing law enforcement officers, including police officers, judges and prison staff, in the principles of human rights and ethnic understanding was very important. He would appreciate information on the efforts that had been made by the Government to train law enforcement officers in human rights principles.

35. He observed that racial and ethnic tensions, particularly in the Karamoja, Kibaale and Teso regions, had been reported by the Uganda Human Rights Commission in its alternative report and corroborated by Amnesty International. Exactions had apparently been carried out by armed opposition groups of the Allied Democratic Forces (ADF) in the west of Uganda, while the Lord's Resistance Army (LRA) had attacked civilian populations in the north, particularly in the districts of Gulu and Kitgum. He would welcome the comments of the delegation on what appeared to be very serious developments.

36. Mr. BOSSUYT said that Uganda was a country that was progressing; the same could not be said about all countries in the region. It was positive that former President Idi Amin's policy of expropriation against Ugandans of Asian origin had been recognized as an act of racial discrimination and that measures had been taken to offer compensation to persons whose assets had been expropriated.

37. He would appreciate specific information about the internal conflict in which the Lord's Resistance Army had been implicated, including an explanation of the duration of the conflict, its causes, and whether there had been ethnic components. He understood that it was a serious phenomenon that had not yet been brought under control, involving numerous human rights violations, including the kidnapping of boys and girls, who were forced to serve in the group's

militia. He enquired about Uganda's military presence in the Democratic Republic of the Congo and the justification for that presence. Grave violations of human rights had apparently taken place in the area of the fighting, as mentioned previously by Mr. Valencia Rodriguez. There was also talk of bringing the conflict before the International Criminal Court. The delegation should provide explanations.

38. Ms. JANUARY-BARDILL said she would like to encourage Uganda in its future reports to provide a much more analytical account of the situation in its country. That account should highlight the challenges the country faced in implementing its national legislation. Paragraph 52 of the tenth periodic report stated that much had been done to enact laws that were necessary for implementing policies and programmes aimed at redressing imbalances in society. She wished to know what kind of programmes had been set up. How were they monitored to ensure that they were achieving their stated goals? She would also be interested in knowing more about the gender dimensions of those programmes, including specific ways in which discrimination affected women and the extent to which they benefited from the redress programmes.

39. According to paragraph 56 of the report, the Constitution also permitted the establishment of traditional or cultural leaders in Uganda in accordance with the culture, customs or wishes of the people concerned. Were there any examples of incompatibility between traditional norms and customs and the Constitution? If so, she would welcome information as to how they had been handled. She recalled that the Committee had been concerned about the extent to which the print and electronic media were used to promote racial tensions. Was sectarianism and racial hatred prohibited in the media in Uganda? She also asked the delegation to provide specific examples of the types of interventions made by the Uganda Human Rights Commission. Lastly, she would welcome details regarding the exact nature of the curriculum for political education in Uganda.

40. Mr. RESHETOV, referring to paragraph 38 of the periodic report, said that he would like to know what kind of racial and ethnic prejudices existed in Uganda; in other words, against whom were they directed? The Committee was already aware of how the Government had treated people of Asian descent in the past. Did the racial and ethnic prejudices described in paragraph 38 of the report refer to the four main ethnicities mentioned in paragraph 6? As to the principle contained in paragraph 49 of the report to the effect that "every effort would be made to integrate all peoples of Uganda, while at the same time recognizing the existence of their ethnic, religious, ideological, political and cultural diversity", he asked what was meant by the term "cultural diversity".

41. It was not clear why the Government planned to submit the text of its Penal Code to the United Nations Secretary-General. Was there any reason why the Committee had not received a copy? He asked for an explanation of the statement in paragraph 65 that as soon as the National Resistance Movement (NRM) Government took office, and given a "politicized army and police", even criminal violence would disappear.

42. According to paragraph 69 of the report, Ugandans of all races, colours and ethnic backgrounds could participate in elections at all levels. The delegation should provide examples to show how ethnic groups, for example, were represented at the highest government levels. It

was not clear why, as mentioned in paragraph 93 of the report, students were encouraged to go to schools in districts other than their own, since in most countries students attended school in their own communities. He would appreciate an explanation on that point.

43. Mr. TANG Chengyuan said he was impressed by the achievements of the current leadership, in particular as reflected in the high economic growth rate. He understood that prior to President Idi Amin's regime, numerous factories in Uganda had been established by persons of Asian origin, Indians in particular. Despite having played an important role in the country's manufacturing sector, they had been driven away and their property expropriated. In the 1990s the Government had introduced compensation measures for the former Asian owners and many had returned to the country, which was positive. However, the issue of discrimination against Asian groups would also have to be addressed. He enquired whether the Penal Code contained specific provisions to correct former discriminatory practices and requested further information about the corrective measures that had been taken in that regard. There were apparently a large number of African refugees in Uganda. Some were from the neighbouring countries of the Democratic Republic of the Congo, Burundi, Rwanda and Tanzania. The delegation should provide the Committee with information on the current situation of those refugees and the way they were treated.

44. Mr. AMIR said that looking at the tenth periodic report as a whole, it had struck him that Uganda could be seen as a country that was "convalescing" from the grave consequences of President Idi Amin's brutal regime, which had been overthrown in 1979 by the Uganda National Liberation Front. Turning to the report, he noted that paragraph 24 referred to the fact that the court system in Uganda was dual, consisting of both a formal and an informal component. He wondered to what extent the Committee should expect the informal component to be adapted to the provisions of the Convention, since the problems dealt with by the informal courts concerned community life at the village level. In his opinion, it would take some time for the informal system to evolve.

45. According to the report, the study of human rights was part of the educational curriculum at all levels of education in Uganda. That demonstrated the willingness of all Ugandan communities to progress to another level. The Committee could therefore enter into a discussion of the Convention's provisions as it did with other States Parties. If Uganda managed to improve the quality of its reporting in the next two or three years, then the Committee could consider that it had helped Uganda to progress in the direction of implementing the Convention.

46. Mr. SHAHI drew the Committee's and the delegation's attention to an alternative report prepared by the Uganda Human Rights Commission, which made many pertinent observations, with both positive and negative implications. He commended the Ugandan Government for the progress it had made in overcoming the consequences of the former cruel Idi Amin dictatorship and for the impressive 5.6 per cent annual growth rate in its economy. In its report, the Uganda Human Rights Commission stated that although racial discrimination did not rank as one of the more notorious human rights violations in Uganda, it had nevertheless been perceived as having played "a devastating role in most post-independence conflicts" and had been "a major ingredient in creating ethnic divisions". It also drew attention to the policies of the "Movement system", which, through decentralization, had provided avenues for small minorities to participate in their own governance.

47. With regard to the judicial system, the report stated that the court systems did not run a dual, or parallel system, as had been suggested in the tenth periodic report, but rather were operated according to a hierarchical structure. The Commission's report also mentioned that Uganda had taken a proactive stand and had taken an active part at the World Conference on Racial Discrimination, Xenophobia and Related Intolerance in Durban, South Africa, in 2001. The report went on to recognize that there was still a lack of enabling legislation to implement the provisions of the Convention and that the national objectives of State policy only offered "a statement of policy and intent". But despite the lack of specific legislation, a number of laws had been enacted in Uganda to provide remedial action in selected racially motivated situations.

48. A large section of the alternative report was devoted to a discussion of racial tensions in various regions of the country, particularly in Karamoja, Kibaale and Teso, and the ways in which the Government was addressing them. Reference was made to the fact that there were 56 indigenous groups in Uganda and that racial hatred and discrimination had been an issue that had pervaded Uganda especially since the post-colonial era. The report also listed the key sectors in which efforts were being made to integrate minorities into public life in keeping with the Government's policy. The Government did not, however, have any policy for equitable participation of certain minority ethnic groups, such as the Batwa and the Bakenvi. He would welcome any further elucidation of the contents of the alternative report from the delegation.

49. The CHAIRMAN invited the delegation to reflect upon the Committee members' questions and comments and to present their replies the following morning.

50. The delegation of Uganda withdrew.

The meeting was suspended at 5.15 p.m. and resumed at 5.25 p.m.

GENERAL DEBATE (agenda item 3) (continued)

Consideration of the Draft Declaration concerning the Middle East crisis
(CERD/C/62/Misc.19/Rev.1 and CERD/C/62/Misc.19/Rev.2)

51. The CHAIRMAN, introducing the Draft Declaration (CERD/C/62/Misc.19/Rev.1) prepared following the previous meeting's discussion, said that the last preambular paragraph, which began "Expressing itself within the framework of its mission ...", should be moved to the beginning of the preamble. In the third preambular paragraph, the words "risk being" should replace "are" in the last line.

52. Mr. THORNBERRY believed that the equivalent phrase in the French version "risquant de se trouver aujourd'hui mis en cause" would be best translated as "are placed at risk".

53. The CHAIRMAN suggested adding the words "peaceful and" before "reasonable" in the last paragraph and deleting the phrase in brackets.

54. Mr. AMIR, referring to the preamble, wondered whether the Committee had the competence to recall provisions for the benefit of the General Assembly or the Security Council, which might imply that members of the international community did not know that those provisions existed. He suggested that “recalling the relevant provisions” should be replaced with “referring to the relevant provisions”.

55. The CHAIRMAN pointed out that “referring to” was not used in that type of declaration.

56. Mr. BOSSUYT asked whether the word “reasonable” was necessary in the last operative paragraph. He believed that it would suffice to say “peaceful solution”. Referring to the first operative paragraph, he queried whether it was up to the Committee to say that any resort to war would result in a resurgence of terrorism. It sounded as if the Committee was inciting to terrorism. He believed that the word “terrorism” should be removed, as had been done in the fifth preambular paragraph of Mr. Kjaerum’s alternative text (CERD/C/62/Misc.19/Rev.2).

57. Mr. de GOUTTES endorsed the Chairman’s suggestion that the last preambular paragraph should be moved up to the beginning of the preamble. He did not object to removing the phrase “through peaceful disarmament and” from the last operative paragraph. Since the Committee had condemned terrorism and its destructive effects on human rights, he had wished to stress in the first operative paragraph of the Draft Declaration that war could result in a resurgence of terrorism. However, the word “terrorism” could be removed, especially since it would be best not to mention terrorism next to racial and ethnic discrimination and xenophobia.

58. Mr. YUTZIS agreed that the word “terrorism” should be removed from the first operative paragraph. He said that “reasonable” in the last paragraph was not the best word in the context and might be replaced with the term “peaceful”. The phrase “through peaceful disarmament” should be omitted as it was not up to the Committee to present that kind of argument.

59. Mr. HERNDL believed that the word “terrorism” should be retained as it was a good argument against any resort to war.

60. Mr. KJAERUM said that the Committee should focus on the substance of the Draft Declaration, as opposed to length. Referring to his version of the text, he said that preambular paragraph 8, which read “Convinced also that the United Nations, the human rights treaty bodies, as well as other international and regional bodies dealing with human rights protection, provide the legal framework in which human rights violations should be addressed and remedied”, added a new dimension to the Draft Declaration and should therefore be added.

61. The Committee should also consider adding the paragraph “Strongly believing that the United Nations provides an important framework for international dialogue and conflict resolution” to the Draft Declaration.

62. Mr. THIAM said that, to make the text more balanced, the paragraph in which terrorism was condemned in all its forms should be replaced with the eighth preambular paragraph of Mr. Kjaerum’s text.

63. Mr. TANG Chengyuan was in favour of replacing the last paragraph of the Draft Declaration with the last paragraph of Mr. Kjaerum's text.
64. Mr. RESHETOV suggested that the Committee should add preambular paragraphs 8 and 9 of Mr. Kjaerum's text to the Draft Declaration. The order of the two paragraphs might be inverted.
65. The word "terrorism" was an essential element of the document and should not be removed. Combating terrorism was one of the possible justifications for waging a war. But by retaining the reference to terrorism, the Committee was also saying that war would contribute to an increase in terrorism and human rights violations.
66. The CHAIRMAN, summarizing the amendments suggested, said that preambular paragraphs 8 and 9 of Mr. Kjaerum's text would be included in the Draft Declaration and the word "terrorism" would remain in the first operative paragraph.
67. Mr. AMIR said that the phrase "condemnation of terrorism in all its forms" should be replaced. The term "terrorism" sometimes applied to States, in the sense that any State could become a "terrorist" by resorting to the unilateral use of force. Referring to the last operative paragraph, he suggested replacing the word "reasonable" with "rational".
68. The CHAIRMAN agreed to remove the word "reasonable".
69. Mr. THORNBERRY, referring to the first preambular paragraph of the Draft Declaration, suggested replacing "provided" with "set out". He supported adding paragraphs 8 and 9 of Mr. Kjaerum's text to the Draft Declaration. In the first operative paragraph, "against" should be replaced with "to" and the word "and" should be inserted between the words "political" and "social". Instead of adding "peaceful" to the last operative paragraph, the Committee could consider adding "just and peaceful" or "peaceful and just".
70. Mr. de GOUTTES suggested that the end of the first operative paragraph might be amended to read: "... intolerance or even terrorism, which could potentially result from it". He strongly believed that the paragraph recalling the Committee's condemnation of terrorism should not be removed. "Terrorism in all its forms" could be replaced with "all acts of terrorism". He agreed that paragraphs 8 and 9 of Mr. Kjaerum's text should be included in the Draft Declaration.
71. Mr. LINDGREN ALVES was against including paragraphs 8 and 9 of Mr. Kjaerum's text on the grounds that they watered down the content of the Draft Declaration. Except for editorial amendments to the English version, nothing should be changed. The last operative paragraph should read: "Calls upon the Security Council ... to find a peaceful solution to the current crisis in compliance with the international legal order binding upon all". In the first operative paragraph, the word "terrorism" could be preceded by "even". It was essential to retain the word "terrorism" because that was one of the points which the Committee wished to emphasize.

72. Mr. PILLAI said that the third preambular paragraph should be split, as Mr. Kjaerum had done in his proposal. However, he would also replace the word “preoccupied” with “seriously concerned” in the second of the two new paragraphs.

73. Ms. JANUARY-BARDILL believed that the preambular paragraph beginning with “Alarmed by the worsening ...” should be retained.

74. Mr. SHAHI said that where reference was made to recourse to force, the expression “recourse to pre-emptive use of force” should be used instead. Saddam Hussein did not constitute an immediate threat to the United States. He might eventually accumulate weapons of mass destruction and might then pose a threat. In his view, pre-emptive use of force was an official doctrine, which was part of the national security strategy of the United States.

75. The CHAIRMAN said that the Committee did not have to deal with the use of force, as that was an issue for other bodies.

76. Mr. RESHETOV suggested that Mr. Shahi’s point had already been made with the reference to the principles set forth in Article 2 of the Charter of the United Nations in the preamble.

77. Mr. THIAM endorsed Mr. Thornberry’s proposed amendments.

78. The CHAIRMAN, summing up the proposals made by Committee members, said that the first preambular paragraph would read “Expressing itself within the framework of its mission of implementation of the International Convention on the Elimination of All Forms of Racial Discrimination”. The second preambular paragraph would refer to the Charter of the United Nations and to the principles “set out in its Article 2”. The third preambular paragraph would remain unchanged. The fourth preambular paragraph would be amended to end with the words: “are placed at risk”. The fifth preambular paragraph would remain unchanged. The first operative paragraph would be amended to read: “Draws the attention ... to the devastating effects ... political and social level, and in relation to ... xenophobia, intolerance, and even of terrorism, that would undoubtedly result from it.” The last operative paragraph would be amended to read: “Calls upon the Security Council ... to find a peaceful solution to the current crisis in compliance with the international legal order binding upon all.”

79. Mr. KJAERUM expressed surprise that objections had been raised to stressing the importance of the United Nations human rights structures, which were increasingly under threat. That was one area where the Committee could add something new and raise the alarm on behalf of the international community.

80. Mr. BOSSUYT explained that he had suggested removing the word “terrorism” from the first operational paragraph because, in that context, it might give the impression that the Committee justified terrorism.

81. Mr. THORNBERRY expressed support for the statements made by Mr. Kjaerum and Mr. Bossuyt. With regard to the third preambular paragraph, he asked whether the Committee was “alarmed” by threats emanating from a particular quarter or by a threatening situation, in which case the passage should simply read “by the threat of force”.

82. The CHAIRMAN said that, in his view, the Committee was alarmed by the worsening of the situation in the world and by the current threats of recourse to force.

83. Mr. THORNBERRY asked whether it was a matter of current threats emanating from a plurality of parties or a threatening situation. He would prefer “threats” to be replaced with “threat” in the singular.

84. Mr. YUTZIS expressed support for Mr. Kjaerum’s comments and agreed with Mr. Bossuyt’s position on terrorism.

85. The Draft Declaration, as orally amended, was adopted.

The meeting rose at 6 p.m.