



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

Distr.: General
23 June 2010
English
Original: French

Committee on the Elimination of Racial Discrimination
Seventy-fourth session

Summary record of the 1911th meeting

Held at the Palais Wilson, Geneva, on Friday, 20 February 2009, at 10 a.m.

Chairperson: Ms. Dah

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The meeting was called to order at 10.15 a.m.

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

Fifteenth to twentieth periodic reports of Pakistan (continued) (CERD/C/PAK/20); list of issues (document without a symbol distributed at the meeting in English only)

1. *At the invitation of the Chairperson, the delegation resumed places at the Committee table.*
2. **Mr. Akram** (Pakistan), recalling that the Committee's task was to examine the implementation by States parties of the International Convention on the Elimination of All Forms of Racial Discrimination, said that his delegation had been surprised by the subjective and erroneous value judgements made by some Committee members at the previous meeting (see CERD/C/SR.1910) and would not allow political considerations or matters relating to Pakistan's foreign policy to affect the consideration of its fifteenth to twentieth periodic reports under the Convention. He had no doubt that the Committee would continue to pursue its established course of constructive critical dialogue with States parties.
3. With regard to the definition of minorities, the Constitution of Pakistan was based on the principle of equality enshrined in Islam and so made no distinction on the basis of race, ethnicity or social origins between citizens, all of whom enjoyed the same rights. The only minorities recognized by the Constitution were religious minorities, and their right to freely practice their religion was recognized in the preamble to the Constitution.
4. Pakistan's federal structure was such that the smaller ethnic groups, such as the Pashtuns, Sindhis and Baluchis, enjoyed autonomy in their respective provinces. At the federal level, the provinces were given proportional representation in the National Assembly based on elections and an equal number of seats in the Senate. The Constitution enshrined the right of every population group to speak its own language, to use its own script and to preserve and promote its own culture. In view of the extreme complexity of Pakistan's social fabric, the only criterion by which minorities could be defined was their religion. In the context of Pakistan, therefore, linguistic or ethnic criteria did not apply and the delegation was not able to provide the Committee with statistics disaggregated according to those criteria. For example, a Christian living in Punjab who spoke Punjabi, which was the language of that province, would not be considered to belong to a "linguistic" minority. As only his religion would distinguish him from members of other groups in that province, he would be identified on the basis of that criterion as a member of a religious minority.
5. Pakistan had still not created an independent national human rights commission, although it had promised to do so as far back as 2004. The bill establishing an independent commission for the protection and promotion of human rights in Pakistan had been submitted to Parliament on 17 December 2008. Consultations had been held on the following two days with representatives of the Asia Pacific Forum of National Human Rights Institutions and the Office of the United Nations High Commissioner for Human Rights, who had drawn the attention of legislators to the need to ensure that the commission complied with the Paris Principles. The National Assembly would consider the bill before submitting it to the Senate for adoption. The relevant legislation should be adopted in the coming months and Parliament would do its utmost to establish the commission before July 2009. Meanwhile, human rights would continue to be defended by other bodies and associations working in that field in Pakistan, including members of the judiciary, civil society organizations or the media, which were responsible for reporting violations and

educating citizens about their rights and the possibility of redress in cases where they considered that their rights had been violated.

6. The local population of the Malakand region in the North-West Frontier Province had welcomed the agreements reached by their representatives and those of the Government concerning the establishment in their region of the Nizam-e-Adl, a legal system based on Islamic sharia. The population had called for the reinstatement of a swift and affordable system of justice such as that which had existed previously in the Swat Valley. It would be fair for Committee members to wait and see what the actual results of those agreements were before criticizing them.

7. The Federally Administered Tribal Areas (FATA) was a tribal region created at the end of the Anglo-Afghan wars in the nineteenth century, when it had been decided that they would be autonomous areas administered by the Pashtuns. Since that time, order had traditionally been upheld by local militias under the authority of the councils (jirgas). Although that system was certainly archaic, no viable system had yet been found to replace it, while satisfying all the tribes involved. Because the region was at the heart of the war on terror, was home to some 3 million Afghan refugees and was a hub for traffic in arms and drugs, the Government of Pakistan would have to ensure that it obtained the agreement of all local populations before it proposed a new system. It had started to develop a sustainable development plan for FATA, which aimed to promote economic and social development, to improve infrastructure and services, to promote the rational use of natural resources and to boost trade and industry in that region. To that end, a strategy based on human and economic development projects had been developed; the FATA Development Authority had been established in 2006; support programmes for civil society organizations in rural areas had been implemented; and a secretariat responsible for coordinating that action had been created and placed under the authority of the Governor of the North-West Frontier Province. The Government had also concluded an agreement with the United States of America, under which 750 million dollars would be allocated to projects to ensure good governance, to promote freedom of information, to develop the health sector — including child health — and to support the drinking water and sanitation supply project. Again, in view of the magnitude of the task, the Committee was invited to show patience and leniency toward the Government of Pakistan.

8. The Federal Shariat Court had various levels of jurisdiction. At first instance, it ensured that existing legislation was in conformity with Islamic precepts. At appeal, it judged cases involving acts covered by the Hudood laws of 1979, which punished any crime related to property, alcohol, adultery (zina) and false accusation (qazaf). It was competent to ascertain whether due process had been followed in cases involving acts punishable under the Hudood laws and also had powers of review. The Federal Shariat Court was lower than the Supreme Court, which was the highest court in Pakistan.

9. There were no State-run religious schools in Pakistan. Religious schools (madrasas) provided free education to the poor. The Government of Pakistan had established a system for the accreditation of madrasas and redefined their curriculums so that students would learn skills in areas that would help them find work easily, such as information technology, mathematics, economics and accounting. Teaching in madrasas was given in local languages. Pupils were grouped in classes of different levels based on their age.

10. The Pakistani Government had established a zero tolerance policy towards violence against women. A bill on domestic violence, which was before Parliament, prohibited marital rape and acid attacks against women. Furthermore, a 2004 law had qualified honour killings as murder and, in 2006, various laws had put an end to forced marriages, the sale of women, repudiation (talaq), the custom known as “vani” whereby a woman could be given in settlement of a dispute between tribes and, lastly, the practice whereby women were deprived of their share of inheritance.

11. The assertion that Pakistan was urging the adoption internationally of a law against blasphemy in the context of preparations for the Durban Review Conference was absolutely incorrect. Along with other Islamic States, Pakistan was opposed to Islamophobia and the demonization of Muslims that had given rise to acts of violence against members of the Islamic community in several Western countries; such acts were prohibited under article 4 of the Convention. That position was not incompatible with freedom of expression and opinion. The laws against blasphemy in Pakistan did not in any way constitute an obstacle to freedom of information and were intended to protect the religious beliefs of all citizens, whether Muslim or not. Persons prosecuted under the blasphemy laws had to answer for their actions in court but had the opportunity, as did other defendants, to prove their innocence and to appeal a court decision.

12. Although it had not signed the 1951 Convention relating to the Status of Refugees and the Optional Protocol thereto of 1967, Pakistan agreed with most of the provisions of those international instruments and had done more for refugees than most signatory countries. In particular, it had dealt with a massive influx of Afghan refugees for 30 years in a manner that had been commended by the whole international community, as well as by the Office of the United Nations High Commissioner for Refugees (UNHCR). There were currently 3 million refugees in Pakistan, accounting for some 30 per cent of the world's total. The Committee would understand why Pakistan thought that it would not be able to implement the provisions calling for international host countries to naturalize and assimilate all refugees on their territory.

13. UNHCR had worked with the parliamentary Human Rights Commission of Pakistan — which consisted of 55 members of all political parties represented in the National Assembly and the Senate — to draft a law that would include a definition of refugees for the first time in Pakistan's history and protect asylum-seekers against the penalties established under the Foreigners Act of 1946.

14. A legal aid centre had been established in coordination with UNHCR to ensure due process in civil and criminal cases involving refugees and asylum-seekers.

15. When India had been partitioned in 1947, a large number of Biharis had migrated to East Pakistan. Following the creation of Bangladesh as an independent State in 1971, the Government of Pakistan had concluded an agreement with the Government of Bangladesh concerning the repatriation of a number of people who had owed their allegiance to Pakistan, including numerous Biharis. The Governments of both States had then tried unsuccessfully to obtain funds from the international community to repatriate and resettle the greatest possible number of Biharis. It was some 37 years since the People's Republic of Bangladesh had been founded; a new generation of Biharis had grown up in that country and enjoyed all the prerogatives of Bangladeshi citizenship, as their participation in the general elections held recently in that country showed.

16. With regard to the Baluchis, the Government of Pakistan gave high priority to the need to engage in meaningful dialogue with the local leaders and people of Baluchistan and to remove their legitimate grievances. The vulnerable population received assistance and both the Federal Government and the Baluchistan provincial government had taken concrete measures to deal with social and economic problems in that area. In August 2008, the Government had established a committee, composed of seven members from the National Assembly and Senate, to assess the situation in Baluchistan and to recommend amicable solutions to problems. That committee had asked the National Finance Committee to consider the distribution of resources among the four provinces at a meeting scheduled to be held in one month. Some imprisoned Baluchi leaders had been released and the charges against them had been dropped. The Government had waived the province's debts to the Federal Government. Considerable efforts had been made to meet the needs of the province and huge dam and reservoir construction projects had been undertaken.

17. However, the problems facing Baluchistan could also be explained by external factors. The presence of many Pashtun refugees in the province had altered the ethnic balance of the region. Moreover, certain groups with external support were interfering to promote secessionism in Baluchistan, as evidenced by the recent abduction of a representative of UNHCR and the suicide bombings and attacks against non-Baluchis. Those abuses were the result of attempts to create unrest in Pakistan under the banner of independence for Baluchistan. The Baluchis were entitled to autonomy under the Constitution and the Government of Pakistan would never allow Pakistan to be partitioned for any reason whatsoever.

18. With regard to Dalits and scheduled castes, the Constitution of the Islamic Republic of Pakistan required the State to discourage racial, tribal, sectarian and provincial prejudices and to guarantee the fundamental rights of all citizens regardless of race, religion, caste, gender, place of residence or place of birth. Equality before the law and equal protection were granted to every citizen. The Constitution contained a number of specific provisions that prohibited discrimination on grounds of race, religion, caste or gender. It should be emphasized that neither the Constitution nor the laws of Pakistan permitted social distinctions among Pakistanis. Islam, the official religion of Pakistan, prohibited any discrimination on grounds of caste, creed or skin colour; the existence of castes was a relic from colonial times and was mainly evident in the Hindu population. Members of the different castes, including Dalits, undeniably faced problems such as forced labour; however, that was the lot of all poor people and the solution was to be found in efforts to fight poverty, including through special measures for the most disadvantaged groups.

19. Pakistan prohibited forced labour and made every effort to combat related practices. It had implemented the Special Action Programme to Combat Forced Labour of the International Labour Organization (ILO), under which States members of ILO could benefit from technical assistance to eliminate structural problems related to forced and bonded labour. The programme included upstream studies in preparation for national surveys on forced labour, in order to verify whether the relevant legislation was consistent with ILO legal instruments; training for members of the community, the judiciary and the security forces; and support to the Government in establishing partnerships with employers and workers in order to promote harmonious industrial relations. The programme had also advised the Pakistani authorities on the creation of a high-level national body to combat forced labour and had conducted pilot projects to test the feasibility of the programmes that had been implemented.

20. With regard to the issue of disappearances, the fight against terrorism was a challenge not only for Pakistan but also for the entire international community and required the adoption of special measures. Despite those challenges, Pakistan's law enforcement agencies had respected constitutional guarantees, even if the incidents that had occurred in the course of the fight against terrorism might have been avoided.

21. Concerning the use of minority languages in courts, article 356 of the Code of Criminal Procedure of 1898 provided that courts must allow witnesses to give evidence and statements in the language of their choice. Pakistan implemented all the provisions in force authorizing the use of regional languages in courts.

22. With regard to ratification of article 14 of the Convention, Pakistan's judiciary was independent and had full authority to enforce constitutional rights and those that involved non-discrimination between Pakistani citizens. Every citizen had the right to seek redress in the national courts if he considered that his rights had been violated and could file a complaint directly with the high courts.

23. Regarding the statement on article 8 of the Convention, the ratification process had been initiated and a favourable decision should be taken in the following months.

24. As a result of the Devolution of Power Plan adopted in 2000, minorities were represented at three levels of local government. They were also represented in the National Assembly and the four provincial assemblies. Individual members of minorities were active participants in all aspects of national life, in particular in the legislative, judicial and executive branches. They were also involved in the civil service, the army, industry and education.

25. It was regrettable that the dialogue established at the previous meeting had not allowed his delegation to discuss the serious problems that Pakistan had been facing for a number of years. His country found itself in a precarious and dangerous geopolitical situation. It had inherited a dispute on its western and eastern borders that was an accident of history but one that had been particularly exacerbated since the invasion of Afghanistan by the former Union of Soviet Socialist Republics (USSR) in 1979. Pakistan currently had more than 3 million Afghan refugees, who had brought weapons into the country and were heavily involved in importing narcotics produced in Afghanistan. On its western border, Pakistan had for many years faced difficult relations with its neighbour India, with which it had a dispute over Kashmir. Moreover, during the past year, Pakistan, like many other countries, had experienced the consequences of the oil crisis and food shortages that had seriously affected the national economy. The country had also had to deal with the collapse of the global financial system.

26. Some of the comments made by Committee experts had no factual basis and were unrealistic. Allegations that half of Pakistan's territory was beyond Government control and that the Government was prepared to use chemical weapons to quell protest movements were all the more surprising insofar as they had never been echoed by the national or international media. The delegation of Pakistan wished to know the source of that information and considered that it would be pointless to conduct a dialogue based on unreliable and unverified information.

27. **Mr. Thornberry** welcomed the information provided by the Pakistani delegation concerning Baluchi claims to autonomy and the strengthened legal protection of women's rights at the federal level. With regard to enforced disappearances it would appear that, despite the delegation's denials, people were still being illegally detained in Pakistan, including Baluchi women, which was a major concern. A solution to that problem must be found urgently and assistance given to victims, even if the Pakistani authorities had made and continued to make efforts to do so. In that regard, the Pakistani authorities might consider asking for assistance from the Human Rights Council special procedures mandate holders.

28. **Mr. Ewomsan**, noting that the type of social hierarchy based on caste had a metaphysical basis for Hindus while Islam advocated the equality of all, said that he wished to know the position of Hindus in Pakistan on that issue.

29. **Mr. Diaconu** welcomed the frank responses of the delegation of Pakistan to the observations and comments of the Country Rapporteur and other Committee members. Noting that Pakistan's delegation and written replies to the list of issues had commented only on discrimination on religious grounds, he drew the delegation's attention to the fact that the Committee was concerned exclusively with discrimination on grounds of race, descent or ethnic origin and not religious discrimination. It would therefore have been useful if the State party's replies had addressed discrimination on those three grounds. It was also regrettable that the delegation had not provided information on the representation of ethnic groups in the public sector or their opportunities to learn in their native language, to create and maintain their own linguistic culture and to obtain access to health services in

their mother tongue. Although the head of delegation had said that provincial governments were empowered to enact laws on the use of minority languages, unfortunately no specific information had been provided on legislation that had actually been adopted.

30. With regard to scheduled castes and discrimination based on descent, he questioned the delegation's view that the existence of caste was directly linked to poverty. On the contrary, the poverty of the scheduled castes was the result of the discrimination to which they were subjected and the fact that they were systematically kept apart from the rest of society and the social progress from which other categories were able to benefit.

31. **Mr. Lahiri** enquired about the socio-economic indicators concerning the various provinces and the measures taken to reduce the disparities between them. The information cited by Committee members came from accredited non-governmental organizations (NGOs), which alleged that flagrant violations of human rights were taking place in Baluchistan, that entire regions of Pakistan were beyond Government control and that chemical weapons had been used against civilians.

32. **Mr. de Gouttes** said that he understood the multiple challenges facing Pakistan and explained that the Committee had always steered clear of adopting a political approach to the issue of discrimination. He recalled the commitments made by Pakistan to the Human Rights Council in 2008, following the universal periodic review. He requested further information on the application of sharia law to non-Muslims, the blasphemy law and the agreement with the Taliban in the Swat Valley.

33. **Mr. Akram** (Pakistan) said that the delegation had spoken at length about religion because the Constitution of Pakistan recognized only religious minorities. Nevertheless, the Government was aware that there were other minorities, such as ethnic and linguistic minorities. With regard to the provinces, there was a widespread sense among the population that Punjab enjoyed more privileges than the other three provinces, which was to a certain extent true, mainly for historical reasons. The State intended to remedy that situation, including by promoting a better distribution of public resources and wealth. The Constitution granted the broadest possible autonomy to the provinces. The various languages spoken in the provinces were protected. Newspapers, radio and television broadcasts were available in all languages. With regard to disparities between the provinces, members of the Committee might wish to consult the socio-economic indicators posted on the Federal Bureau of Statistics' website.

34. Admittedly human rights violations did occur in Baluchistan, but the perpetrators were brought to justice to the extent possible and no violations were committed with the consent of the authorities. Baluchistan was a tribal society with a low level of education and deep-rooted ancestral traditions and practices. Violence against women there was clearly a difficult problem to combat.

35. The delegation did not wish to dispute the veracity of the information provided by NGOs but it must be said that their very serious accusations were sometimes groundless. For example, no chemical weapons had been used against civilians. Sharia law was not applied to non-Muslims. The purpose of the agreement with the Taliban in the Swat Valley was to halt abuses in that region. The signature of that agreement did not in anyway undermine the State's authority but simply recognized the prevailing situation and the jurisdiction of the courts established by the Taliban. As for the blasphemy law, that had in fact never been applied to date.

36. **Mr. Prosper** asked whether the delegation considered that discrimination existed in Pakistani society. If so, he wished to know what the State was doing to combat discriminatory practices.

37. **Mr. Lindgren Alves** sought additional information on the position adopted by Pakistan at the Durban Review Conference negotiations, especially with regard to the defamation of religion. Moreover, it appeared from the delegation's replies that the State did not fund any religious schools (madrasas). That was not necessarily a good thing as it would prevent the authorities from exercising any control over the most fundamentalist Koranic schools. He invited the delegation to give its view on that issue.

38. **Mr. Akram** (Pakistan) said that no country was immune to racial discrimination and Pakistan was no exception to that rule. The Government did not yet have sufficient capacity to effectively enforce the laws and affirmative action programmes that it had adopted to date but it was, at least, resolved to combat racial discrimination and, in time, it should be able to find the necessary means to do so. The executive and legislative bodies gave priority to the issues that they considered the most urgent, including terrorism and the economic crisis. However, the delegation assured the Committee that on its return to Pakistan it would draw the attention of the authorities to the fact that the issues that the delegation had discussed with the Committee should also be considered urgent.

39. Pakistan was the coordinator of the group of Muslim countries attending the Durban Review Conference. The Pakistani authorities considered the defamation of religion, whether of Islam or any other religion, to be unacceptable. They were not opposed to freedom of expression but considered that it should be limited with regard to remarks that were hostile to or disrespectful of a given religion. Such remarks were a form of incitement to hatred against a particular group and could lead to physical violence against the followers of the religion concerned. No country was immune to such excesses. Had anti-Semitic statements been banned straight away in Germany before the Second World War, it might have been possible to halt the process that had led to the Holocaust.

40. In Pakistan, State-run schools were free and the fees paid by students in State universities were very low. Pakistan could not afford to subsidize the thousand or so madrasas in addition to the existing public institutions. However, the Government did offer support to madrasas that requested it, provided that they were registered with the competent authorities, so that their funding sources could be verified. Madrasas where children were trained to commit suicide attacks were only a small minority. The Government was taking resolute action against those schools, but they often reappeared under a different name or went underground. The authorities encouraged the madrasas that were operating legally to adopt an approach that was less based on religion and to incorporate secular topics. As an incentive, madrasas were allowed to issue certificates of secondary education to pupils who had attended school for 10 years, which allowed them access to public or private universities.

41. **Mr. Peter** (Country Rapporteur) said that he was delighted that the State party had resumed dialogue with the Committee after an interval of almost 20 years and welcomed the frankness and openness demonstrated by the delegation of Pakistan during consideration of the report. He noted with satisfaction that Pakistan had provided detailed replies to practically all the questions that had been put to it and said that he hoped that the information not provided orally at the meeting would be communicated to the Committee later in writing.

42. With reference to the salient points of discussion between Committee members and the delegation of Pakistan, he said that the Committee noted with satisfaction that minorities were officially recognized in the State party and that the Ministry of Minorities Affairs and the National Commission for Minorities had been established. It also noted with satisfaction that the State party had adopted a law criminalizing honour crimes. While it acknowledged that the Government was facing a constant threat of terrorism, a problem that was particularly acute on account of Pakistan's geographical location, the Committee recalled that the authorities must strike a balance between the imperative of domestic

security and the need to protect and respect human rights. Moreover, it emphasized that the State party should guarantee the access of minorities to natural resources in the areas in which they lived; ensure that justice was administered efficiently throughout the country; identify the members of the scheduled castes and publish the data obtained; ratify the international and regional instruments to which Pakistan was not yet a party; and enshrine in law the obligation to comply with quotas for minority representation in public service.

43. **The Chairperson** welcomed the resumption of dialogue with Pakistan and expressed the hope that it would submit its periodic reports regularly and in good time in future and provide the information that the Committee would request under the follow-up procedure, within the required time frame.

44. *The Pakistani delegation withdrew.*

The meeting rose at 11.50 a.m.