



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 2460th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 9 August 2016, at 3 p.m.

Chair: Ms. Crickley

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The meeting was called to order at 3 p.m.

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

Combined fourth to eighth periodic reports of South Africa (CERD/C/ZAF/4-8; CERD/C/ZAF/Q/4-8)

1. *At the invitation of the Chair, the delegation of South Africa took places at the Committee table.*
2. **Mr. Jeffery** (South Africa), introducing the State party's report (CERD/C/ZAF/4-8) and acknowledging its late submission, said that the Government had taken steps to improve its reporting mechanisms in order to ensure timely compliance with its reporting obligations in future. The Convention had a special significance for South Africa, given the country's tragic history of injustice, dispossession and inequality under the apartheid regime that had turned black people into second-class citizens in the land of their birth. The work still to be done to address the inequalities that were the legacy of apartheid was substantial; dismantling the edifice of that legacy involved much more than simply repealing apartheid legislation and replacing it with legislation based on equality. Substantive equality could be achieved only with a much more determined effort that required political will, dedicated resources, new institutions and the progressive realization of socioeconomic rights for all South Africans.
3. The Constitution formed the basis of the nation's social compact. It was designed to heal the divisions of the past and enable all persons to achieve their potential. In the first 20 years of democracy, significant advances had been made in education, health, housing, poverty reduction and other areas, and more than 1,200 laws and legislative amendments had been passed to give effect to the constitutional goals of equality, human dignity, human rights and freedom for all. However, despite those efforts, the country continued to feel the effects of racial discrimination. In particular, black women continued to struggle under the triple yoke of race, gender and class oppression. It was therefore pertinent that the meeting was taking place on the country's National Women's Day, which commemorated the women's anti-pass march led by Lilian Ngoyi on 9 August 1956.
4. With regard to developments during the reporting period, he said that the Government had made good progress both in formulating its national action plan to combat racism, racial discrimination, xenophobia and related intolerance and in drafting a bill to combat and prohibit hate crime. The national action plan would provide a comprehensive policy framework for addressing racial discrimination at both the private and public levels and would complement rather than replace existing laws, policies and programmes. The current draft had been aligned with the practical guide for developing national action plans against racial discrimination published by the Office of the United Nations High Commissioner for Human Rights and had been updated to reflect the country's current situation. After being approved by the Cabinet in December 2015, the draft was being subjected to an intense round of public consultations that had recently been extended, on the request of civil society, until the end of August 2016. Once all resultant comments and inputs had been considered, a revised draft would be submitted to the Cabinet.
5. The proposed legislation to address hate crimes was a response to the recent increase in hate speech and hate-motivated offences in South Africa. The bill included as protected characteristics nationality, gender identity, HIV status, albinism, intersex status and occupation or trade. None of those characteristics were currently mentioned as categories in the Constitution but all were recognized to have constituted grounds for prejudice, bias and intolerance in recent times. The current draft should be opened up for public comment

within the next month and it was hoped that the bill would be submitted to the Parliament before the end of 2016.

6. Migration was also an important issue at the present time. South Africa remained a major destination country for asylum seekers, but also for migrants seeking better economic and social opportunities; a particular problem currently facing the authorities was the large number of asylum claims being submitted by foreign nationals who were in reality economic migrants. Although 95 per cent of applications were ultimately rejected, each one had to be duly considered and all applicants had the right to appeal a negative decision before the migration authorities and, subsequently, the courts. There were therefore major blockages in the system. Undocumented migrants awaiting deportation were held at the Lindela Repatriation Centre, which was overseen by the South African Human Rights Commission, regularly inspected by the International Red Cross and administered in accordance with international standards.

7. Although the Government and the majority of peace-loving South Africans strongly condemned acts of criminality against foreign nationals, attacks on persons based on their migration status had, unfortunately, risen, in extreme cases causing loss of life and damage to property. To address such violence and the discrimination that lay at its root, three interministerial committees focusing on, respectively, migration, social cohesion and population policy had been established, as well as an ad hoc joint committee on probing violence against foreign nationals. In April 2015, President Zuma had convened a meeting of stakeholders including business, religious, community and youth leaders, trade unionists, persons with disabilities and representatives of the world of sport and the arts to discuss how the various sectors could work together to promote orderly migration and good relations between South African citizens and non-nationals. The prosecution of cases involving attacks against foreign nationals was given priority and dedicated courts had been established to fast-track such cases.

8. He wished to reiterate, with regard to the recommendation contained in paragraph 11 of the concluding observations issued by the Committee in 2006 (CERD/C/ZAF/CO/3), that the nation's vision for its future was that of a people united in their diversity, not divided along ethnic and tribal lines. For that reason, the Government did not as a rule disaggregate statistical data according to ethnicity. However, it did compile data on disadvantaged groups, which it used to advance their situation and would be happy to share with the Committee. Furthermore, the Constitution recognized the right of indigenous populations and communities to preserve their cultural, linguistic and religious forms of expression and a number of bold measures and policies had been adopted to protect their rights in general. A recent example of such measures was the Traditional and Khoi-San Leadership Bill, submitted to the Parliament in 2015, which provided for the statutory recognition of Khoi-San communities and their leaders.

9. In addition to its concerted efforts to combat all manifestations of racism at home, the Government of South Africa continued to lead international efforts. For example, it had spearheaded various flagship initiatives within the United Nations system giving follow-up to the Durban Declaration and Programme of Action, including the proclamation of the International Decade for People of African Descent; had been instrumental in the establishment of the Ad Hoc Committee of the Human Rights Council on the Elaboration of Complementary Standards, the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, and the Working Group of Experts on People of African Descent; and had a prominent role in the work of the Permanent Forum on Indigenous Issues.

10. Every action taken by the Government of South Africa was guided by the will to eradicate the legacy of apartheid and racial discrimination and ensure, in the words of former President Mandela, that that "beautiful land [would] never again experience the

oppression of one by another”. Nonetheless, the aftermath of more than 300 years of colonialism and apartheid remained evident in all areas of life. For example, black South Africans remained grossly underrepresented in business decision-making, occupying just 14.3 per cent of senior management positions despite accounting for 79 per cent of the total population. In short, South Africa was still, in the words of former President Mbeki, “a country of two nations” — one that was white and relatively prosperous and a second, larger one that was black and poor. Measures to redress past inequalities clearly remained necessary but, ultimately, the Government’s continued efforts to eradicate them would ensure that all South Africans shared in the nation’s wealth and prosperity.

11. **Ms. Dah** (Country Rapporteur), noting that 10 years had passed since the Committee’s previous dialogue with the State party, said that, while the periodic report and the accompanying updated core document (HRI/CORE/ZAF/2014) conformed to the Committee’s guidelines, the lack of information they provided about the report preparation and drafting process, the degree of civil society input and consultation, and the contribution of the South African Human Rights Commission was regrettable, especially since the Government frequently solicited the support and assistance of the NGO sector and the Human Rights Commission in its awareness-raising and other activities and both had key roles in its efforts to implement the Convention.

12. She would like to know how long it was likely to take to “purify” the nearly 3,000 statutes referred to in paragraph 8 of the periodic report that had been identified as being in violation of section 9 of the Constitution and potentially, if unintentionally, discriminatory in effect or consequence. Given the flagrant inequalities that still separated the poor, black majority from the prosperous, white minority who owned nine tenths of the land, earned on average six times more than their black compatriots and controlled the mining, agricultural, banking and industrial sectors, during her analysis of the report she had found the most recent census data published by Statistics South Africa to be extremely instructive, in that it continued to categorize the people of South Africa into four, historical population groups: black African, coloured, white, and Asian or Indian. Although she accepted that the categorization system was an inherited one, it would be useful to know whether or not participants in the census were categorized on the basis of self-identification.

13. With regard to the special measures adopted by the State party, she said that they were fully in line with the Convention, and the fact that they addressed the majority of the population was not an issue, as the majority in South Africa consisted of disadvantaged groups. She asked what action had been taken to reduce or eliminate any disparities between the policies envisaged and the implementation of the special measures, whether such policies only concerned the economic and social sectors, and what the impact of the special measures had been so far. Details would be welcome on the current status of the national action plan to combat racism, racial discrimination, xenophobia and related intolerance and on what openness there had been between the Government and the parties involved to ensure that all of the issues of interest to South Africa were duly considered. Would the proposed amendments to the action plan be taken into account?

14. She noted the recent rise in hate speech and hate crimes in the workplace, in schools and on social networks, and the increase in racial violence on farms, and enquired what time frame the State party had envisaged for the adoption of legislation prohibiting racially motivated and gender-based hate crimes. Indigenous groups such as the Khoi-San and Nama peoples should benefit not only from special measures but also permanent measures that took into account their specific situation. The Committee would like to know the intentions of the State party regarding the petition by the National Khoi-San Council for the official and legal recognition of five indigenous communities, and the request by the Khoisan Kingdom and All People Party to extend the time limit for claims on ancestral lands. She asked whether the State party planned to ratify the International Labour

Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), and how it intended to remedy the consequences of its decision to temporarily suspend fishing quotas without consulting or informing the groups concerned. Information would be welcome on the size of the indigenous population, as it was absent in the latest census, and on cross-border cooperation with neighbouring States, particularly Namibia.

15. She requested the delegation to provide details of the number of migrants, asylum seekers and refugees in the country, as they had not been accurately represented in the latest census. Noting that immigration exceptions had been made for Zimbabwean nationals, she asked what the situation was for immigrants from other member States of the Southern African Development Community. It was necessary to point out that the processing of asylum seekers' applications was excessively and almost deliberately lengthy, thus placing asylum seekers at the risk of expulsion or detention, and that the State party had failed to respond to the Committee's letter on early-warning measures and urgent procedures sent in 2011, following racist and xenophobic attacks against African refugees and asylum seekers.

16. The Committee had been informed that, despite the legal framework that guaranteed equality for women, levels of discrimination and violence based on sexual orientation and gender remained high, and women's access to justice and reparation continued to be impeded by a lack of capacity and political will. She wished to draw attention to the double discrimination experienced by women from ethnic groups in the country, and to harmful traditional practices such as the abduction and forced marriage of young girls (*ukuthwalwa*).

17. Turning to the right to health care and education, she asked when and under what conditions the proposed social security system would be put into operation, and what progress had been made in addressing the disparities in education inherited from apartheid. It would be useful to learn whether the fact that South Africa had 11 official languages and was home to immigrants who spoke other languages represented an obstacle with regard to education. Furthermore, what was the cost of education and what share of the State budget was allocated thereto?

18. **Mr. Kut** asked the State party to explain why it had not provided an interim report containing information on the frequency of hate crimes and hate speech, acts of violence against women, the backlog of asylum seekers' applications and xenophobic attitudes in the State party and negative stereotyping of non-citizens, as had been requested by the Committee in its 2006 concluding observations.

19. **Mr. Avtonomov** said that the methodology of the report was unclear, as there was no specific section for the responses to the Committee's concerns and recommendations. He noted that the State party had made an optional declaration under article 14 of the Convention, and asked it to supply information on its ratification of the amendments to article 8. The State party should disaggregate population data by ethnic origin and not only by skin colour, as there were many different ethnic communities within the black and white population groups in the country. He asked in what population group indigenous persons from the Americas or aboriginal Australians, for example, would be included. The Committee wished to know whether the State party collected statistics on mixed marriages and, if so, what the data demonstrated. If it did not collect such information, could it explain why? It would also be useful to learn whether the State party had investigated possible discrimination against Dalits, which was an issue in Indian communities across the world.

20. **Mr. Murillo Martínez** asked what impact the new political context that was emerging in South Africa could have on the democratic stability of the country, especially with regard to the vestiges of apartheid. He also wished to know how the designation of black persons went beyond African descent and skin colour, as it seemed to be linked to the establishment of certain social groups during apartheid, and to which sectors of the

population it referred. The Committee would appreciate further information on land distribution, since the concentration of landownership appeared similar to that observed during apartheid, and on any plans to introduce an agrarian reform.

21. He enquired what strategies had been implemented to address the high level of unemployment in the country and whether they had affected the political and electoral evolution and democratic stability of the country. It would also be pertinent to know what other initiatives the State party had developed to tackle HIV/AIDS. A national strategic plan had been launched, but no data had been provided on how it was contributing to the reduction of HIV/AIDS. He wished to know more about the status of customary law in the country and about the role of the National House of Traditional Leaders within the State, including its level of cooperation with the ordinary courts.

22. **Mr. Bossuyt** asked, with regard to the 2004 decision of the Constitutional Court, which ensured the social and economic rights of permanent residents in South Africa, what conditions non-nationals had to fulfil to receive the same social assistance as citizens. The reference in the periodic report to the significant flow of immigrants into the country and the rise in xenophobia demonstrated the importance of controlling immigration in order to ensure a balanced society. It was essential to safeguard the independence of the highly respected Constitutional Court and all of the other State institutions supporting constitutional democracy, and to apply the Constitutional Court's decisions, in order to forge a State in which the rule of law prevailed. He would appreciate information on the role and operation of the Equality Courts and on results that they had achieved.

23. With regard to special measures, the approach being taken in South Africa to combat racial discrimination was excessively quantitative and insufficiently qualitative, and the application of quotas was too rigid at the national level and inadequate at the regional level. It was important to ensure sufficient representation, but merit also needed to be taken into account. While representativity was necessary in the political domain and, by extension, in the courts, the administration and the diplomatic service, there were other sectors, such as the private sector and sport, in which it was less relevant. Assistance should be provided to individuals on the basis of need and level of poverty rather than skin colour, which was contrary to the Convention. In that regard, South Africa ran the risk of returning to the legislation of apartheid, which had established a classification of racial groups. A special measure could not be justified solely by the objective pursued, but rather by the ways in which that objective was achieved.

24. **Mr. Yeung Sik Yuen** said that it was regrettable that, even with the formal demise of apartheid, the judiciary was still largely dominated by white South Africans. He agreed that a transformation of the judiciary was necessary to guarantee the entire population of South Africa access to justice. Referring to the statistical data on the ethnic composition of the judiciary contained in paragraph 42 of the State party's periodic report, he requested clarification on the scope of the category "African", which he had understood to encompass only black Africans. However, if the category "African" was intended to encompass all the indigenous peoples of South Africa, the category "coloured" should be subsumed under it. Despite the fact that a number of the country's senior judicial officials had been black Africans, it appeared from the statistical data provided, which dated back to 2009, that the judiciary was still shaking off the negative legacy of apartheid and that much remained to be done in that regard. It would be helpful to receive more up-to-date statistical data in order to obtain a more accurate picture of the current ethnic composition of the judiciary.

25. Noting that the profession of sheriff had also been dominated by white South Africans, he asked whether sheriffs, who were, in South Africa, the persons responsible for executing court orders, were appointed by and attached to a specific court and, if so, what qualifications they were required to possess and whether they were recruited by way of an open competition.

26. **Mr. Marugán**, recalling the Committee's previous concluding observations, in which it had expressed concern over the frequency of hate crimes and hate speech in the State party and the ineffectiveness of the measures adopted to combat those phenomena thus far, and had recommended that the State party should ensure the full and adequate implementation of article 4 of the Convention by adopting legislation and other effective measures to prevent, combat and punish hate crimes and speech, said that, although the State party had become a signatory to the Council of Europe Convention on Cybercrime and had adopted a raft of legislation to combat Internet-based crime, there was still a dearth of statistical data on the prevalence of online hate crimes and hate speech in South Africa. It would be helpful if the State party could include such data in its next periodic report.

27. Noting that two criteria had to be met before an expression could be considered to constitute hate speech, namely that it must constitute advocacy of hatred on one of the grounds listed in Chapter II, section 16 (2), of the Constitution and that the advocacy of hatred must constitute incitement to cause harm, he asked whether the aforementioned bill to combat and prohibit hate crimes would relax that stringent requirement and prescribe penalties for expressions of racial hatred when only the first of the two criteria was met.

28. He also wished to know when the 597 xenophobia-related incidents recorded by the interministerial committee responsible for dealing with xenophobic attacks had actually occurred, as the statistical data provided in the periodic report related only to 2009. Furthermore, the case law cited to exemplify the State party's approach to dealing with racial propaganda dated back to 2002 and 2003 and did not therefore reflect recent developments in that area. It would be useful to receive more recent examples of relevant case law.

29. Lastly, he requested statistical data on the prevalence of racially motivated violence against both South African nationals and non-nationals living in the country.

30. **Mr. Lindgren Alves** said that he had noted with interest that the State party had adopted a generic scorecard to measure businesses' progress in empowering members of disadvantaged groups as an affirmative action measure. However, he was concerned that the scorecard, which measured businesses' progress by giving them a score out of 100 per cent, introduced the idea of merit into affirmative action that was intended to remedy the racial inequalities suffered by the different non-white racial groups under apartheid. Moreover, the Committee had been informed that, at times, the affirmative action taken by the State party, which it acknowledged was necessary to promote racial harmony in South African society, could lead to the exclusion of members of racial groups that were underrepresented in a given region.

31. It was interesting that the case law exemplifying the State party's approach to dealing with racial propaganda concerned hate speech proffered by black Africans against Indians and white South Africans but not vice versa. That information was particularly useful, as it drew attention to the multifaceted nature of racial discrimination in the State party. He hoped that the State party's ongoing efforts to dispel the remaining vestiges of the systemic racial discrimination stemming from apartheid would remove the need for such affirmative action measures in the future.

32. Noting that South Africa was involved in the working group tasked with elaborating an optional protocol to the Convention, he recalled that the Committee was against the adoption of any such complementary instruments, as it maintained that any new forms of racial discrimination that emerged could be addressed more effectively by means of a general recommendation.

33. Although he continued to harbour general misgivings over the appropriateness of collecting statistical data disaggregated by ethnicity, he understood the need for the State

party to do so on account of its history. He would therefore welcome statistical data on the Khoi-San indigenous people.

34. **Mr. Khalaf** said that South Africa remained a beacon of hope for other countries struggling to overcome inequalities stemming from racial discrimination. However, it was regrettable that, more than two decades after the abolition of the apartheid regime, so little progress had been made in certain areas and that, to an extent, South Africa remained a racially divided country. It was therefore all the more important for the State party to implement the Convention fully and effectively in its national territory.

35. He invited the delegation to explain the factors perpetuating the economic disparity between white South Africans and other racial groups, particularly the persistent inequality in land distribution, and to indicate whether the new national action plan to combat racism, racial discrimination, xenophobia and related intolerance would address those issues and, if so, in what manner.

36. Although he welcomed the steps taken by the State party to give effect to the Durban Declaration and Programme of Action and to the recommendations contained in the Committee's previous concluding observations, it needed to do more to tackle xenophobia, especially in the light of the Supreme Court of Appeal's statement to the effect that human dignity was inherent in all persons, regardless of whether they were South African nationals, and should be respected and protected. It would be helpful to hear more about the specific measures to combat xenophobia and to encourage adherence to the constitutional values of non-discrimination and human dignity that had been included in the national action plan. Lastly, he asked whether judges drew upon the provisions of the Convention when ruling on cases involving racial discrimination.

37. **Ms. Hohoueto** said that, as the State party was well aware, the elimination of all forms of racial discrimination was a prerequisite for achieving substantive racial equality in the country. She therefore failed to understand why it had still not incorporated the definition of racial discrimination contained in article 1 of the Convention into the Constitution or its domestic legislation.

38. According to the State party's common core document, the Constitution stipulated that the provisions of an international treaty could not be invoked before or directly enforced by the national courts or other tribunals or administrative authorities without first being domesticated. It was therefore deplorable that, despite the insistence of the Committee, South Africa had still not incorporated the Convention into its domestic legal framework. Moreover, she objected to the use of the term "unfair discrimination" in the State party's periodic report and the common core document, as the use of that term implied that discrimination could, under certain circumstances, be "fair", which was never the case. She recalled that, for the purposes of the Convention, any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which nullified or impaired the equal recognition or exercise of human rights and fundamental freedoms constituted racial discrimination. Any affirmative action taken by the State party with the aim of advancing the rights of racial or ethnic groups that had suffered discrimination in the past should not give rise to new forms of discrimination.

39. The administrative fee levied as a matter of course by small claims courts could dissuade or prevent impoverished persons whose civil rights had been violated from bringing a case. Furthermore, the small claims courts system did not necessarily guarantee a fair trial or respect for due process, as neither party could be represented or assisted by counsel and the courts were presided over by commissioners who were laymen and not professional judges. She asked what steps the State party envisaged taking to remedy those deficiencies and to guarantee impoverished persons access to civil justice.

40. Lastly, she would like to learn more about how the common law system had been introduced in South Africa immediately following the abolition of apartheid, particularly since the case law on which the common law system was based was practically non-existent in the country at that time.

41. **Mr. Amir**, recalling that many of the victims of apartheid had been deprived of and were still trying to reclaim their ancestral lands and that the issues of landownership and land distribution remained highly controversial and racially divisive, asked what steps the State party had taken or planned to take to ensure that lands that had belonged to the indigenous peoples of South Africa were returned to them or their descendants through the appropriate legal and administrative channels.

42. **Ms. Shepherd**, congratulating South Africa on overcoming the tragedies of the past and creating a post-apartheid society, said that the social reconstruction project, in the view of some people, was taking a long time but that South Africa was well on its way. She wished to know if there was justification for black South Africans to think that the Truth and Reconciliation Commission had failed them, particularly in delivering economic justice, which must be the next phase in the post-apartheid project.

43. She asked whether history studies were compulsory at any level of the education system and how they were taught so that each group in society could learn about the past and contribute to the future. She wished to know who was writing new history textbooks to allow that to happen, given the inherited content of textbooks from the past. How would South Africa use the programme of activities for the implementation of the International Decade for People of African Descent to highlight the contribution of black Africans to the development of the country, and what plans were there for constructing sites of memory to permanently honour that contribution in the public space? It would be interesting to learn how the State was responding to calls for the removal of sites of memory that white South Africans found empowering but that were painful to black South Africans, such as the statue of Cecil Rhodes.

44. Inasmuch as one of the reasons for the influx of migrants from neighbouring States was the lack of certain skills, especially among black South Africans, she asked what steps were being taken to train the national labour force to fill those gaps.

45. **Ms. Li Yanduan** said that she was impressed with the State party's efforts to combat racial discrimination, especially through legislation. However, there was still a gap between the goal and reality, which she hoped could be bridged soon. She requested more information on action taken to combat xenophobia at the legislative, judicial and administrative levels.

46. **Ms. Mohamed** asked how the 11 national languages of South Africa were distributed, documented and taught in schools. She wished to know whether the consequences of apartheid were fading, and whether black women or women belonging to ethnic minorities could own land.

47. **Mr. Calí Tzay** said that, given the history of South Africa and its struggle against racism and racial discrimination, it was important to mention the efforts to recognize the rights of indigenous peoples who had historically been marginalized and discriminated against. He asked whether South Africa recognized that it had indigenous peoples and, if so, what steps were being taken to adopt the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169).

48. Referring to the process to overhaul national legislation to remove obsolete, redundant or unconstitutional laws in order to comply with the Constitution's provisions on equality, he wished to know what measures were in place to ensure that changes to

legislation relating to special measures to combat racial discrimination did not precipitate a step backwards in guaranteeing the rights of marginalized groups.

49. With regard to the law on the promotion of equality and prevention of “unfair discrimination”, he wondered whether it meant that “fair discrimination” existed and asked the State party to provide examples of fair discrimination.

50. He asked whether the groups listed in the racial classifications in paragraph 16 of the periodic report had self-identified themselves as such, or whether the State had identified them.

51. He would like to receive information on the improvements yielded by the National Strategy Plan for HIV and AIDS, which sought to ensure that HIV/AIDS medicines and treatment were available to all people in South Africa, both nationals and non-nationals. He would also appreciate receiving figures on the increase in the number of black people enrolled in law schools.

52. **Ms. Dah** said that the Committee’s role was to ask challenging questions of States parties in order to support them constructively in fulfilling their obligations under the Convention. She encouraged South Africa to become familiar with the Committee’s mechanisms and decisions because it was surprising to see no mention of the Committee’s concluding observations in the periodic report. That was why throughout her presentation those had been cited and explanations provided.

53. To the extent that article 5 constituted the backbone of the Convention, it had been surprising to note the State party’s delay in ratifying the International Covenant on Economic, Social and Cultural Rights, which was an important instrument for a country under reconstruction. The human rights treaty bodies were currently undergoing a strengthening process to render them more efficient and effective and to ensure that they were all working as parts of the system. They were aware of each other’s work and their respective concluding observations and recommendations issued to countries, as well as the universal periodic review recommendations.

54. Although South Africa was very active in the Human Rights Council, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had yet to receive the State party’s agreement to conduct a visit there despite requests to do so since 2008. She wondered why the State party had not agreed to a visit by the only Special Rapporteur who dealt with the Committee’s issues in more depth and could offer the best advice on combating racial discrimination to the State party.

55. **Mr. Jeffery** (South Africa), referring to the issue of racial classification, said that, when the Dutch had first colonized South Africa, the Khoi and the San peoples were already in the Cape, while Bantu-speaking people had arrived around 250 A.D. The Dutch, followed by the English, had arrived and taken the land, exterminated a number of the San and had later entered into conflict with the Bantu. They had also brought slaves from Angola, Mozambique and Indonesia. Under the racial classification of “whites” were people of purely European extraction, “coloured” or “mixed race” referred to people from the Western Cape and of Indonesian origin. The Bantu-speaking people were regarded as African, and Indians had arrived later.

56. Under the apartheid regime, everyone who was not white had been discriminated against. Most money for education was allocated to white people, less to Indians, even less to coloured people and the least to black people. Twenty-two years after apartheid, that legacy continued. About 80 per cent of the population were African. In terms of delineation between indigenous and non-indigenous peoples, it was important to note that all of the Khoi, the San and the Bantu-speaking people had been dispossessed of their land.

The meeting rose at 6 p.m.