



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

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Seventy-second session

SUMMARY RECORD OF THE 1865th MEETING

Held at the Palais Wilson, Geneva,  
on Friday, 29 February 2008, at 3 p.m.

Chairperson: Ms. DAH

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*The meeting was called to order at 3.10 p.m.*

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION  
SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION  
(agenda item 6) (*continued*)

Review of implementation of the Convention in States parties for which periodic reports are seriously overdue: United Arab Emirates, Gambia

1. *At the invitation of the Chairman, the members of the delegation of the United Arab Emirates took places at the Committee table.*
2. The CHAIRPERSON thanked the delegation of the United Arab Emirates for appearing before the Committee to explain the difficulties encountered by that country in preparing its periodic reports. The United Arab Emirates had addressed a note verbale to the Committee and had sent a delegation to explain its content and exchange views with Committee members in order to gather additional information concerning the drafting of periodic reports.
3. Mr. AL ZAABI (United Arab Emirates) said that the Government of the United Arab Emirates welcomed the role played by the Committee in the preservation of fundamental rights and freedoms, particularly in efforts to combat racism. Racial discrimination was a practice that violated human dignity and had brought suffering to all peoples. For that reason, the Emirates had acceded in 1974 to the Convention, which formed part of the efforts of the international community to put an end to discrimination. That accession reflected a true and sincere concern to respect all human rights, freedom and equality for all social categories, and to guarantee the dignity of all persons living in the country, since the Constitution laid down the principle of equality and prohibited slavery and all forms of treatment that impaired human dignity. The State party was endeavouring to put in place mechanisms to ensure respect for human rights. In 2006, the country had for the first time organized legislative elections; women had participated and one woman had been elected as a deputy and seven women had been appointed to the National Council. That attested to the State's concern to establish the principle of equality among citizens.
4. The delay in submitting the periodic reports of the Emirates was in no way due to an unwillingness to implement the Convention, for the State had always tried to do so effectively and spared no effort to guarantee human dignity in society, in accordance with the Constitution and legislation of the country. The Emirates had always been anxious to submit its periodic reports on time and to take into account the recommendations and observations of the Committee. It would continue to work with the Committee to implement the Convention.
5. He again thanked the Committee for agreeing to consider the report of the Emirates at a later date and said that every effort would be made to submit a single combined report within the stated time frame.
6. The CHAIRPERSON noted the firm political will of the United Arab Emirates to comply with the requirements of the Convention. She again thanked the delegation for coming before the Committee to offer explanations.
7. Mr. KEMAL thanked the delegation of the United Arab Emirates for taking the initiative of meeting with the Committee members; that was a sign of the importance that the State party attached to the work of the Committee. He was aware that hundreds of thousands of persons had emigrated to the Emirates and that that had

naturally created problems of adaptation, since the country received many different ethnic groups. The report to be submitted to the Committee should enable it to understand one of the most dynamic regions in the world, which had opened its arms to immigration and must now contend with the problems thus created.

8. Mr. de GOUTTES said that it would not be possible during the current meeting to address substantive issues concerning the implementation of the Convention in the United Arab Emirates. He noted the fact that, in the letter recently received from the Government of the United Arab Emirates, the Government had undertaken to submit its periodic report by 30 June 2008; that was a highly positive development since it represented a commitment.

9. Mr. SICILIANOS said that it would be desirable for the State party to familiarize itself with the reporting guidelines recently adopted by the Committee.

10. Mr. ABOUL-NASR said that, by virtue of its geographical position, the United Arab Emirates occupied a very sensitive place among the countries in the region and that, through its example, it deserved to be represented at the next session of the Committee to explain the problems that existed in the region with regard to the crisis in Iraq or Pakistani or Indo-Pakistani workers. The Emirates had done a great deal to advance human rights, both within the United Nations and within the Arab League, and the next meeting with the Committee should offer an excellent opportunity to consider the situation in that country.

11. Mr. AMIR said that the presence of the delegation of the United Arab Emirates was a good omen for human rights in that country and for the report that would be submitted as part of the dialogue with the Committee.

12. Mr. PROSPER recalled that most countries spoke in their reports of the difficulties encountered in implementing the Convention and that it was desirable for each country to pinpoint those problems and to describe them frankly so as to make it possible to work constructively together to find solutions. The Committee should be regarded as a group of friends wishing by its comments and advice to provide useful assistance to the countries considered. It was then up to the States parties, which were sovereign, to take the fullest advantage of them.

13. Mr. EWOMSAN said that the presence of the delegation of the United Arab Emirates clearly illustrated its desire to resume the dialogue with the Committee, which was indeed very important. The purpose of the Committee was not to judge but to enable States to become aware of the problems linked to discrimination in their country and to do everything possible to address them.

14. Mr. CALI TZAY greeted the delegation and said how important it was for countries like the United Arab Emirates to engage in dialogue with the Committee. He welcomed the presence of the delegation after a long 10-year break, which nevertheless represented only four or five periodic reports. A combined report should enable the Committee to relaunch a constructive dialogue with the State party.

15. The CHAIRPERSON said that she hoped that the exchange of views during the current meeting would prove useful and that the advice and guidance provided by the Committee would help the State party to draft the periodic report for submission by the end of June.

16. Mr. AL ZAABI (United Arab Emirates) thanked the Chairperson and the members of the Committee for their understanding and said that he looked forward to

meeting again with the Committee at the end of June to submit the periodic report of the United Arab Emirates. The good cooperation between the Committee and the State augured well for the success of that meeting.

17. Mr. AL GHOUFLY (United Arab Emirates) thanked the members of the Committee for their understanding and assured them of the determination of the Emirates to submit its report on time. The delegation had benefited from the current meeting which would make it easier to prepare the periodic report of the United Arab Emirates, which was all the more resolved to strengthen human rights in the country by incorporating international instruments at the domestic level.

18. Mr. KEMAL said that, in order to dispel any misunderstanding, and since the periodic report of the Emirates would be submitted at the end of June 2008, it would be useful if the Secretariat could spell out whether the report would be considered by the Committee at its August session or whether that would be decided later.

19. The CHAIRPERSON said that, considering that the report would be submitted on 30 June 2008, it would, after being received by the Secretariat, be transmitted to the translation services then scheduled for consideration at a subsequent session. It was therefore not possible to say yet at which session it would be considered except that it would be as early as possible, but probably not in August or in February.

20. Mr. AL GHOUFLY (United Arab Emirates) wished to know whether the report was to cover the entire period from 1995 to 2008 or only the last four years.

21. The CHAIRPERSON said that the report should cover the entire period mentioned, but that it should reflect the current situation while taking previous years into account.

22. She said that the Committee had finished considering the implementation of the Convention in the United Arab Emirates under the review procedure.

23. *The delegation of the United Arab Emirates withdrew.*

#### Gambia

24. Mr. EWOMSAN, Country Rapporteur, explained that the Committee had last considered the implementation status of the Convention in the Gambia on 22 March 2001 on the basis of the concluding observations that it had adopted in 1980 on the initial report of that State party. Since then, the situation in the Gambia had been considered three times under the review procedure, not counting the current meeting. The State party, which should have submitted its second periodic report in 1982, had not transmitted any further report to the Committee. Despite the various letters and notes verbales addressed to the permanent mission of the Gambia in Paris, reminding the State party of its reporting obligations, the country had clearly no intention of resuming the dialogue with the Committee. The Committee therefore had no choice but to consider the implementation status of the Convention in the Gambia under the review procedure.

25. Nevertheless, in a last-ditch attempt to revive the dialogue with that State party, he proposed to send to the Gambian Government a list of questions focusing on general matters and on the implementation of particular articles of the Convention. He thus proposed to request exhaustive information from the State party on the ethnic composition and geographical distribution of its population. With regard to the legal system of the Gambia, he suggested that the State party should be asked to submit

information on the status of the Convention in domestic legislation; the possibility of invoking the Convention before domestic courts; the constitutional provisions providing effective protection of the rights covered by the Convention and the measures taken by the State party to bring civil and political rights, customary law and domestic decrees and regulations into line with the Convention. He also proposed that the State party should be asked whether it planned to make the declaration under article 14 of the Convention recognizing the competence of the Committee to consider individual communications.

26. Concerning article 1 of the Convention, he proposed that the State party should be asked whether its domestic law contained a specific definition of racial discrimination in accordance with the Convention and whether direct and indirect forms of discrimination were covered by that definition.

27. With reference to article 2 of the Convention, he proposed that the Committee should ask the Gambia whether the Gambian Constitution set out the principle of non-discrimination and whether the Gambian legal system provided protection against racial discrimination. He noted an apparent contradiction between articles 17 and 33 of the Constitution, which concerned customary law and freedom of religion, and the Convention. The Committee could also request information on the mandate and functions of the Ombudsman; the existence of an independent national commission for the promotion and protection of human rights set up in accordance with the Paris Principles; and the measures adopted to facilitate the establishment of NGOs that would combat racial discrimination.

28. Under article 3, he proposed that the Gambia should be asked to state whether its legislation specifically condemned racial segregation and apartheid and whether measures had been taken to prevent and eliminate all such practices in its territory.

29. Concerning article 4 of the Convention, it would be useful to have information about legislative, judicial and administrative measures to ensure the effective implementation of the provisions of that article. He also wished to know whether the Gambian Penal Code provided for penalties for offences involving the dissemination of ideas based on racial superiority and whether domestic legislation prohibited and punished organizations that incited to racial discrimination and hatred.

30. Going on to article 5 of the Convention, he wished to have information on the status of non-citizens in the Gambia, namely, migrants, asylum-seekers and refugees, considering that there were in the territory of the country more than 10,000 refugees and asylum-seekers originating mainly from Senegal, Sierra Leone, Guinea-Bissau and Liberia. He also wished to know whether refugees and asylum-seekers had access to social services and medical care. He further wished to request the State party to communicate statistical data on the participation of members of the various national ethnic groups in the country's political, judicial and police bodies. Stressing that, according to reports from various sources, Gambian women were victims of forms of racial discrimination linked to the persistence of ancestral and traditional practices which served to confine women to an inferior status, he wished to know what measures had been taken or were planned by the Gambian authorities to correct that situation and whether an amendment to the Inheritance Act was being considered. The State party could also be requested to provide information on the participation of women in public life, their access to higher education and their representation in Government.

31. Referring to numerous reports of significant disparities in the access of children to education, particularly between boys and girls, he wished to know what measures had been taken to ensure equal access by children to education, irrespective of gender, and to put an end to the discrimination suffered by disabled children in that respect. He also wished to have statistical data on street children who engaged in begging and to know what measures had been taken to educate them and facilitate their social integration. It would also be useful to have information on the measures taken to eliminate the sexual exploitation of children, which was reported to be practised on a large scale, and to combat sex tourism and all forms of sexual exploitation for commercial purposes of immigrant women and children from Guinea-Bissau, Senegal, Sierra Leone and Liberia. He likewise proposed that the State party should be asked to provide the Committee with information on the implementation of the 2003 Sexual Offences Act and on the measures taken to eradicate the practice of sex tourism.

32. Under article 6 of the Convention, he wished to know whether there existed in Gambian domestic legislation mechanisms for receiving and dealing with complaints concerning acts of racial discrimination and whether there were victim rehabilitation programmes.

33. Concerning article 7 of the Convention, it would be interesting to know whether the country had adopted specific training programmes on human rights, inter-ethnic tolerance and the provisions of the Convention.

34. Mr. ABOUL-NASR approved the content of the list of questions presented by the Country Rapporteur but wished to know whether the diplomatic representation of the Gambia had been contacted and informed of the situation. If the Gambia had proved to have rejected all attempts at dialogue with the Committee, the Committee should perhaps decide to draw the attention of the States Members of the United Nations General Assembly to the fact that the Gambia was party to the Convention but was not fulfilling its obligations under that instrument.

35. Mr. de GOUTTES said that the list of questions outlined by the Country Rapporteur was very comprehensive. He suggested that, at the appropriate time, the Committee should also draw on the concluding observations adopted by other international human rights treaty bodies concerning the Gambia. He recalled in that connection that the Committee on the Elimination of Discrimination against Women, which had considered the situation in the Gambia in 2005, had expressed concern about the almost institutional discrimination exercised against women in the Gambia and, in particular, about the fact that the Gambian Constitution explicitly stipulated that the prohibition of gender-based discrimination did not apply to matters of personal status, with regard notably to adoption, marriage, divorce, burial and devolution of property on death (A/60/38, para. 189). That same body had also said that it was concerned about the widespread practice of polygamy, the paucity of information in the report on the sexual exploitation and trafficking in women and girls in the Gambia and the measures taken to combat those phenomena (ibid., para. 194). The Committee on the Rights of the Child, which in 2001 had considered the situation in the Gambia (CRC/C/15/Add.165) had, for its part, noted a whole series of violations of the right to housing. The Committee could highlight the information held by those two treaty bodies.

36. Mr. DIACONU said that he did not deny that there were serious problems in the Gambia but that the question of religious discrimination was not covered by the Convention unless it was on the grounds of race or ethnic origin; otherwise, it came

under the Human Rights Committee. Likewise, discrimination against women did not fall within the competence of the Committee unless it was based on race or ethnic origin.

37. Mr. PROSPER approved most of the questions that the Country Rapporteur proposed to include in the list of issues that could be addressed to the Gambia. Following Mr. Aboul-Nasr, he wished to have sanctions applied to States parties which, like the Gambia, had ratified the Convention but did not comply with its provisions on reporting to the Committee

38. Ms. PROUVEZ (Office of the United Nations High Commission for Human Rights) said that she had tried several times to contact the mission of the Gambia in Paris, then the mission of the Gambia to the United Nations in New York, but to no avail.

39. Mr. LINDGREN ALVES said that he had duly noted the very interesting points made by Mr. Diaconu. With regard to the list of issues, he approved the questions proposed by the Country Rapporteur but was not sure that a State that had not complied with its obligations for so long could receive a list of questions in the same way as countries that scrupulously discharged their reporting obligations. It would be more useful to address to all States Members of the United Nations a list of those States parties that did not comply with article 9 of the Convention.

40. The CHAIRPERSON recalled that the list of States parties for which periodic reports were seriously overdue was systematically attached to the annual report of the Committee to the United Nations General Assembly.

41. Mr. EWOMSAN said that he was not opposed to the suggestions of the previous speakers but wished first and foremost to restore the dialogue with the Gambia, while being prepared if necessary to consider sanctioning it subsequently if it did not respond to the list of issues. He recalled in that connection that the Committee had always considered the dialogue with States parties to be the best way of encouraging them to eliminate racial discrimination.

42. Mr. LINDGREN ALVES proposed that a letter should be sent to the Gambian Government containing the list of issues suggested by Mr. Ewomsan and informing it that the Committee was considering possible ways of sanctioning States parties that did not comply with their obligations.

43. Mr. KJAERUM said that he approved the principle of such a letter but the best way of applying sanctions to a State party to the Convention was to consider how that State implemented its provisions in the absence of a periodic report, on the basis of information communicated by other sources, including non-governmental organizations in the country.

44. Mr. de GOUTTES recalled that the review procedure had originally been designed as a means of pressure by the Committee on States parties since it consisted in informing States parties whose reports were seriously overdue that if they did not submit periodic reports to the Committee, the Committee could evaluate the implementation of the Convention in their territory on the basis of information communicated by NGOs and other United Nations treaty bodies.

45. The CHAIRPERSON took it that the Committee members approved the principle of a letter being sent to the Gambian authorities containing a list of issues proposed by Mr. Ewomsan and setting a date limit for receipt of their replies.

46. *It was so decided.*

47. The CHAIRPERSON said that the Committee had finished considering the implementation of the Convention in the Gambia under the review procedure.

FOLLOW-UP TO THE WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (agenda item 10) (*continued*)

Follow-up activities to the Durban Declaration and Programme of Action

(E/CN.4/2004/WG.21/10; E/CN.4/2004/WG.21/10/Add.1; A/HRC/4/WG.3/6; questionnaire of the Office of the United Nations High Commissioner for Human Rights, document distributed in the Committee room, in English only)

48. Ms. PROUVEZ (Office of the United Nations High Commissioner for Human Rights) introduced the documents entitled "Views of the Committee on the Elimination of Racial Discrimination on the implementation of the Convention on the Elimination of All Forms of Racial Discrimination and its effectiveness" (E/CN.4/2004/WG.21/10 and Add.1), recalling that they had been prepared at the request of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action which, at its second session, had requested the Committee to consider the implementation of the Durban Declaration and Programme of Action, as well as the issue of complementary standards. The two documents needed to be read in parallel, bearing in mind that the addendum was more detailed and more important than the summary.

49. She introduced the document entitled "Complementary international standards" (A/HRC/4/WG.3/6), recalling that it had been prepared in response to a recommendation by the Intergovernmental Working Group at its fourth session, pursuant to which the Office of the United Nations High Commissioner for Human Rights had asked five experts to prepare a study on the nature and scope of a substantive gaps in the existing international instruments to combat racism, racial discrimination, xenophobia and related intolerance. That study had been published in August 2007 and introduced by Mr. Avtonomov at the fifth session of the Intergovernmental Working Group, which had decided to submit it to the new Ad Hoc Committee on the Elaboration of Complementary International Standards.

50. She said that the latter document and the questionnaire sent by the Office of the High Commissioner to all the treaty monitoring bodies (document distributed in the Committee room, in English only) could serve as a basis for the work of the Committee on follow-up to the Durban Conference. Replies to the questionnaire should be sent to the Office of the High Commissioner by 15 March 2008.

51. Mr. MURILLO MARTÍNEZ suggested that the Committee ask one of its members to present, at the sixth session of the Intergovernmental Working Group, a summary of the contributions of the Committee to the follow-up to the Durban Declaration and Programme of Action, together with its replies to the questionnaire.

52. Mr. KJAERUM noted with satisfaction that the three documents introduced by Ms. Prouvez covered a large number of issues and gave a clear picture of the work carried out by the Committee in various fields, in particular the new procedures adopted in the past decade. The Committee could therefore use those documents as basis for its replies to the questionnaire of the Office of the High Commissioner.



53. Concerning the procedural gaps noted by States parties, the Committee could propose three innovations: the organization of country visits; *in situ* investigations; and national mechanisms to monitor the Convention.

54. With regard to substantive issues, the Committee could, in its replies to the questionnaire, highlight a number of significant obstacles to the implementation of the Convention. First, the Committee should stress that many States parties had a false and outdated idea of the meaning of the term "discrimination", reducing it to racial tension between blacks and whites. Secondly, the Committee should stress the absence of mechanisms and infrastructure, at all levels of government services in countries, for national human rights institutions capable of combating racism. Thirdly, the Committee should raise the problem of institutional racism.

55. Mr. LINDGREN ALVES, concurring with Mr. Kjaerum, recalled that, following its discussions on complementary standards, the Committee had reached the conclusion that there were no gaps in the Convention, as any shortcomings were corrected by its general comments.

56. Concerning the misconception of the meaning of discrimination, not only States parties but also human rights activists did not clearly grasp that concept. It was therefore essential to reproduce in full at the beginning of any document for the second Durban Conference the definition of racial discrimination contained in article 1.1 of the Convention.

57. Furthermore, knowing that a meeting of the States that would be participating in the second Durban Conference had recently been held in Geneva, he suggested that the Committee should invite one of the chairpersons of the regional groups, at a subsequent meeting of the Committee, to come and talk about the progress of preparations for the Conference.

58. Mr. DIACONU, supporting the proposals made by M. Kjaerum, noted that the Committee considered the Durban Conference to be essentially one of the stages in a process that had long been under way. Consequently, the replies to the questionnaire could not be confined to the period between 2001 and 2008. In addition, the Committee was not competent to reply to some of the questions put to it, in particular those concerning the evaluation of the implementation of the Declaration and Programme of Action and the effectiveness of the mechanisms established for that purpose.

59. Lastly, he suggested that the Secretariat should update the addendum (E/CN.4/2004/ WG.21/10/Add.1), by including in it a summary of the Committee's deliberations on the subject since 2004.

60. Mr. de GOUTTES supporting Mr. KJAERUM, said that the Committee had done considerable work to ensure follow-up to the Durban Conference: it had, through one of its members, participated in the activities of the Intergovernmental Working Group; it had met with the group of five experts tasked with studying the question of complementary standards; and it had also met with the Special Rapporteur on freedom of religion or belief. Following those activities and discussions, the Committee had reached the conclusion that the Convention covered all forms of discrimination, both direct and indirect. Since the study (A/HRC/4/WG.3/7) clearly reflected all those aspects, the Committee should make use of it to reply to the questionnaire, while highlighting the innovations proposed by Mr. Kjaerum (country visits, investigation procedure and strengthening of national mechanisms), and also making the point that there were no gaps in the Convention.

61. Mr. PETER noted that, since the adoption of the Convention in 1965, societies had changed and racism, racial discrimination, xenophobia and related intolerance had assumed new forms, which were not foreseen in the Convention. He therefore proposed that the Committee should highlight contemporary manifestations of those scourges and said that he was in favour of the adoption of a new protocol prohibiting them. He also stressed that, unlike the general recommendations of the Committee, the new protocol, by virtue of its legal nature, would be binding on States parties.

62. Mr. LINDGREN ALVES said that he had detected some weariness on the part of the international community with regard to new international human rights instruments and that already States parties did not always comply with their most basic reporting obligations. It would therefore be advisable not to elaborate new ones.

63. Mr. PROSPER, supported by Mr. KJAERUM, suggested that it should be emphasized in the Committee's replies to the questionnaire that a number of States parties did not fulfil their obligations under the Convention and had not made the declaration under its article 14.

64. Mr. KJAERUM, referring to the question of new forms of racism and racial discrimination, noted that one of the subjects most often addressed during consideration of the reports of States parties and most often taken up in the concluding observations of the Committee following consideration of those reports was that of double discrimination, in other words, racial discrimination combined with discrimination on the grounds of gender, religion or disability. That could be the subject of a protocol to the Convention.

65. Mr. MURILLO MARTÍNEZ said that, in view of the very short time available to the Committee to reply to the questionnaire, it should incorporate the contributions already prepared by the Secretariat and add to them. He suggested that the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance could be asked to entrust to the Committee on the Elimination of Racial Discrimination responsibility for putting in place the instruments and mechanisms that it might consider necessary for the optimum execution of its work.

66. Mr. LAHIRI noted that the question of religion was highly sensitive and that it would be preferable for the idea of elaborating a protocol on that question to come from States parties rather than from a committee of independent experts.

67. Mr. KEMAL said that it could be usefully stated in the reply to question no. 5 in the questionnaire that the Committee could better discharge its mandate if States parties granted it more funds.

68. Mr. LINDGREN ALVES pointed out that religion did not come within the scope of the Convention and that that question was consequently not covered by the mandate of the Committee. He was therefore formally opposed to the proposal to elaborate a protocol on that question.

69. The CHAIRPERSON said that the Committee would continue to consider at a subsequent meeting the question of follow-up to the Durban Declaration and Programme of Action, thereby giving all its members an opportunity to reconsider their position on the various proposals made during the discussion, bearing in mind the need for them to reach a consensus and to speak with one voice.

*The meeting rose at 6 p.m.*