



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

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**Committee on the Elimination of Racial Discrimination  
Sixty-fourth session**

**Summary record of the 1631th meeting**

Held at the Palais Wilson, Geneva, on Friday, 5 March 2004, at 10 a.m.

*Chairperson:* Mr. Yutzis

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*The meeting was called to order at 10.10 a.m.*

**Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (agenda item 6) (continued)**

*Fifteenth and sixteenth periodic reports of Nepal (CERD/C/452/Add.2) (continued)*

*At the invitation of the Chairperson, the members of the delegation of Nepal took their places at the Committee table.*

1. **Mr. Acharya** (Nepal) said that discrimination based on caste was profoundly rooted in Nepalese society but that Nepal was sparing no effort to remedy the situation. All the necessary legal provisions had been adopted to ensure better integration of indigenous communities and lower caste groups (such as the Dalits and a wide range of programmes to combat poverty had been initiated under the Tenth Periodic Plan (2003-2007). Provisions had also been made to improve the representation of indigenous communities in Parliament and in local institutions. Moreover, the Government had decided to authorize the use of a language other than Nepalese in local institutions. That second working language would be chosen from among those spoken by the greatest number of indigenous people at the local level.
2. **Mr. Bishwakarma** (Nepal) said that the National Dalit Commission had been set up in 1996 with the aim of combating discrimination against members of that caste, who had the lowest sociocultural and economic status of all social categories. Composed of 10 members appointed by the Government and representing the numerous Dalit organizations, the Commission was responsible for implementing awareness, schooling and continuous learning programmes and for taking measures to ensure better integration of Dalits in society. It also produced radio programmes to make the Dalits better known to the rest of the population. However, the Commission had a relatively limited scope for manoeuvre and the Government intended to adopt laws extending its remit. Given that the poverty and marginalization of the Dalits, who made up 20 percent of the population, was a matter of the greatest concern to the Nepalese authorities, local development and income-generating programmes had been implemented for their benefit.
3. **Mr. Rajbansi** (Nepal) said that the National Foundation for the Development of Indigenous Communities had been set up in 2002 to promote respect for the fundamental rights of communities. It had adopted a wide-ranging plan of action that placed the emphasis on community literacy in the 10 mother tongues, the publication of dictionaries in five languages and the implementation of income-generating programmes. It also carried out studies and research on the country's different indigenous communities
4. **Mr. Acharya** said that the law on legal aid was aimed at applying the principle whereby the State was obliged to improve access to justice by people lacking resources and other disadvantaged groups, such as the Dalits, women and indigenous communities. Free legal aid was provided in some districts, but Nepal envisaged extending it to the whole country so that all citizens could be legally represented, consistent with the principles of a Nepalese State based on the rule of law.
5. A few cases of racial discrimination or discrimination based on membership of a caste had come before the courts. The cases, which usually concerned a refusal of admission to public places or temples, were still pending.
6. Concerning education and awareness-raising, Mr. Acharya drew the Committee's attention to the fact that international human rights standards and fundamental principles were taught in higher education establishments and universities. A comprehensive programme of human rights education, designed to be incorporated in all national curricula, was also in the process of being drawn up. Various human rights training programmes,

aimed at magistrates, legal officers in civil administrations, members of the Armed Forces and law enforcement officials, were likewise being implemented in collaboration with NGOs. Given the country's limited resources, implementation of those programmes would benefit greatly from international cooperation. Similarly, programmes to boost the capacities of members of the mediation committees mentioned in paragraph 86 of the report (CERD/C/452/Add.2) had been initiated with the help of NGOs and local authorities.

7. Finally, Mr. Acharya said that the National Human Rights Commission, one of whose functions was to hear individual complaints concerning human rights violations, particularly in cases of discrimination based on membership of a caste, was regularly consulted by the various parliamentary commissions responsible for examining draft laws.

8. **Mr. Boyd** said he was conscious of the difficulty of giving effect to legal provisions prohibiting discrimination in a country with a long history and strong traditions and with high levels of illiteracy and poverty. Referring to the installation of separate water supply systems for Dalits and the rest of the population by local authorities in certain villages, a typical example of discriminatory treatment by a public body, Mr. Boyd asked whether there was an appropriate government structure or body with the necessary authority and capacity to oversee and coordinate the introduction of measures to combat discrimination and to ensure that no measure taken by a public body was counterproductive in that regard.

9. **Mr. de Gouttes** welcomed the establishment of the National Dalit Commission and the fact that it was composed exclusively of Dalits. However, he would like to know how the work of the Commission would be coordinated with that of the justice system and asked that the State party's next periodic report should include information on the cases of discrimination referred to that Commission

10. **Mr. Shahi** recognized that a comprehensive approach was needed in the fight against discrimination based on membership of a caste and that changing outlooks in a society strongly marked by tradition would require time. However, he believed that greater efforts should be made to give effect to the criminal provisions relating to the fight against discrimination in order to overcome the feeling of impunity that people belonging to higher castes seemed to feel in their relations with Dalits and which explained many acts of discrimination and ill-treatment to which the latter were subject in their everyday lives.

11. **Mr. Pillai** favoured a holistic approach to the problem of discrimination based on caste, which presupposed a careful definition of the problems affecting the Dalit community and identification of the needs of disadvantaged communities.

12. **Mr. Acharya** (Nepal) recognized that it was very important for Nepal to possess an effective institutional and legal framework to combat discrimination. The Nepalese Human Rights Commission had been set up in 2001 precisely because the Nepalese Government was and remained convinced that only a comprehensive, long-term and integrated approach to the problem of discrimination based on caste could bring about a genuine shift in attitudes and create a State based on the rule of law applicable to all Nepalese communities.

13. A substantial part of the activities of the Human Rights Commission was devoted to awareness programmes on human rights and questions of racial discrimination, focused on the general public, judicial personnel, lawyers and the police. The Commission was also mandated to receive complaints and take up on its own initiative any case involving human rights violations.

14. Mr. Acharya added that the NGOs had been closely associated with the preparation of the report under consideration and that they had participated actively in all the efforts by the authorities to eliminate the discrimination to which lower caste groups were subject. In partnership with the NGOs, the Government had also drawn up criminal procedure directives that took account of human rights instruments.

15. **Mr. Kjaerum** (Rapporteur for Nepal) welcomed the fact that the State authorities were reflecting on ways of changing the perception of the Dalit community and integrating all communities in civil society. It was obvious that the process would be a long one since it was not possible to change a system that had existed for 3000 years in a single day. It was therefore important that the authorities should pursue and accelerate their efforts in that regard.

16. He also noted that the explanations provided by the delegation had helped to clarify some important points and had made for a better understanding of the structure of Nepalese civil and criminal law. However, some questions needed to be further clarified in the State party's next periodic report.

17. With regard to the mechanisms for implementing human rights legislation, the Rapporteur welcomed in particular the creation of the National Human Rights Commission, the National Dalit Commission and the National Commission for the Development of Nationalities but underlined that the bodies concerned had been created very recently and had doubtless not yet acquired sufficient institutional weight to have a real influence on developments on the ground. In that connection, it was to be hoped that the National Dalit Commission would enjoy greater independence. The establishment of the Mediation Committee clearly testified to the Nepalese Government's will to strengthen institutional capacities in the fight against discrimination based on caste. It was necessary to pursue efforts in that direction.

18. **Mr. Acharya** (Nepal) considered that the dialogue with members of the Committee had been genuinely productive and had helped to identify the path to be followed in order to eliminate all forms of racial discrimination. The process would be a long one and Nepal would need international cooperation if its efforts were to be recognized and the challenges confronting it were to be properly taken into account.

19. *The Nepalese delegation withdrew.*

*The meeting was suspended at 12 a.m. and resumed at 12.20 p.m.*

**Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (item 9 of the agenda) (continued)**

*Summary record of the meeting of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action and follow-up to the request by the latter inviting the Committee to consider assessing the current implementation of the Convention*

20. **Ms. January-Bardill** said that at the beginning of February 2004 Mr. Diaconu, then Chairman of the Committee, Mr. Pillai and herself had taken part in the meeting of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, which met to discuss the topic of the effectiveness of existing norms in combating racism, racial discrimination, xenophobia and related intolerance and the possibility of preparing new ones. She emphasized that they had spoken in their own names, given that members of the Committee had not yet had the opportunity to debate the topic and could not therefore speak with one voice on the question.

21. Ms. January-Bardill rehearsed for members of the Committee the argument she had put forward to the Intergovernmental Working Group, namely that if - despite the numerous regional and international instruments designed to combat racism, racial discrimination, xenophobia and related intolerance and despite the large number of countries that had ratified the seven main instruments in that regard and had enshrined the principle of non-discrimination in their Constitutions - the phenomena in question continued to re-emerge in all parts of the world, the reason was that the political will to find genuine solutions was

lacking. Indeed, there was no lack of legal frameworks prohibiting racism, racial discrimination, xenophobia and related intolerance, but the relevant laws were broken with impunity by both institutions and individuals. Moreover, States refused to recognize that racism had become commonplace in many societies and that it would require much more than a strengthening of existing instruments or the creation of new mechanisms to address the problem. It was only by adopting policies aimed at genuine equality of treatment that the Durban Declaration and Programme of Action could be implemented.

22. Ms. January-Bardill explained that the Office of the United Nations High Commissioner for Human Rights, under its mandate to oversee the implementation of the Durban Declaration and Programme of Action, was requesting the Committee on the Elimination of Racial Discrimination, together with the other treaty bodies, to undertake an assessment of the effectiveness of its work. She would like to have the views of the members of the Committee on the best way of fulfilling that task.

23. **Mr. Sicilianos** said it would be appropriate if the experts who had participated in the meeting of the intergovernmental group were to prepare with the help of the secretariat a draft reply that could serve as the basis for reflection on the subject by members of the Committee. He took the view, like Ms. January-Bardill, what was needed was not so much to create new international standards but rather to ensure respect for existing instruments.

24. **Mr. de Gouttes** also shared Ms. January-Bardill's viewpoint and hoped that the reply document would emphasize the new tools adopted by the Committee over the years to improve implementation of the Convention, including the introduction of country rapporteurs, the review procedure applicable to countries whose reports were seriously overdue and finally the emergency measures and early warning procedure. The reply should stress, in his view, that the support of governments and of the secretariat was necessary if the Committee was to be more effective.

25. **Mr. Amir** also wished to see the Committee's diverse efforts to improve implementation of the Convention highlighted and to see the Committee, whose mandate was precisely to combat racism, racial discrimination and xenophobia in all its forms, participating more actively in the follow-up to implementation of the Durban Declaration and Programme of Action. It should therefore take part in all the meetings of experts and other intergovernmental meetings on the subject.

26. **Mr. Pillai** said that the task entrusted to the Committee, namely assessing the effectiveness of the implementation of the Convention, resembled an exercise in introspection in the form of an assessment by the Committee of its own work, in both quantitative and qualitative terms. He believed that the qualitative analysis demanded of the Committee could be based on the published reports of international experts. Finally, he supported the suggestion by Mr. Sicilianos to appoint a small group, in which he would be ready to participate, to prepare a draft reply.

27. **Ms. January-Bardill**, supported by **Mr. Herndl**, highlighted the ambiguity of the terms used by the Working Group, which invited the Committee to consider assessing, if it deemed necessary, the "current" implementation of the International Convention on the Elimination of Racial Discrimination "placing the emphasis on contemporary forms of racism". She was tempted to see in that invitation a disguised criticism of the Committee's work, the implication being that it was inadequate and had not achieved the expected results. Members of the Committee should reflect on that question before taking a decision on how to respond to the request for self-evaluation.

28. **Mr. Lindgren Alves** said that the Working Group's request was quite justified since the Committee, by the very nature of its mandate, was the body best placed to follow up the implementation of the Durban Declaration and Programme of Action. He added that it was very difficult to assess the specific impact of the application of an international convention

in a State party and to establish a definite causal link between implementation of the Convention in a particular country and the existing situation in that country. He therefore proposed devoting several meetings at the next session to assessing the Committee's work with a view to considering the adoption of new approaches.

29. **The Chairman** announced that the next meeting of the Intergovernmental Working Group on the Effective Application of the Durban Declaration and Programme of Action would take place in 2005 and that the Committee still had time to renew its consideration of the matter.

*The meeting rose at 1.05 p.m.*