



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

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-third session

SUMMARY RECORD OF THE 1589th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 7 August 2003, at 10 a.m.

Chairman: Mr. DIACONU

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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 4) (continued)

Sixteenth and seventeenth periodic reports of the United Kingdom of Great Britain and Northern Ireland (continued) (CERD/C/430/Add.3, HRI/CORE/1/Add.5/Rev.2 and HRI/CORE/1/Add.62/Rev.1)

1. At the invitation of the Chairman, Mr. Gill, Mr. Callister, Mr. Entwistle, Mr. Robilliard, Mr. Smart, Mr. Mulligan, Ms. Hussein, Mr. Duke-Evans and Mr. Steel (United Kingdom) took places at the Committee table.
2. Mr. AMIR, continuing the comments by members of the Committee on the report of the United Kingdom of Great Britain and Northern Ireland (CERD/C/430/Add.3), expressed satisfaction at the replies that had been given thus far by the delegation. He noted, however, that, the Committee's concluding observations and recommendations on the previous report of the State party notwithstanding, solutions had not yet been found to a number of the issues that had been raised during consideration of that report. He questioned, in particular, why the substantive provisions of the Convention had not yet been incorporated into domestic law and why individuals were protected from discriminatory practices only if such practices were specifically prohibited by law, even though article 1 of the Convention provided for a broad prohibition of all forms of racial discrimination.
3. In the wake of the terrorist attack of 11 September 2001, he felt compelled to warn against any temptation on the part of the United Kingdom, which had a long and proud history of close ties to the Muslim world, to adopt policies that blurred the distinction between terrorists and the broad population of the Muslim minority in the United Kingdom. The latter bore no responsibility for the events of 11 September and were in fact part of the global struggle against terrorism. He requested that his cautionary note should be reflected in the Committee's concluding observations.
4. In his own country, Algeria, over 200,000 people had died at the hands of terrorists practising an extremist ideology. The tragedy of 11 September had given new impetus to the worldwide struggle against the scourge of terrorism and the Muslim world with its 1 billion people was a part of that struggle.
5. Mr. CALLISTER (United Kingdom), replying to the questions and comments of the Committee, said that the Channel Islands and the Isle of Man were self-governing Crown Dependencies of the United Kingdom. While their Governments were responsible for enacting legislation, the Government of the United Kingdom was responsible for their defence and international relations, including the implementation of international treaties and conventions, such as the Convention on the Elimination of All Forms of Racial Discrimination.
6. In comparison with other parts of the British Isles, the populations of the Crown Dependencies included only small numbers of persons from ethnic minorities. Their Governments were nevertheless keen to fulfil their obligations under the Convention in order to

demonstrate that they were internationally responsible jurisdictions. While the problems of asylum-seekers and Travellers did not currently arise in Jersey, Guernsey and the Isle of Man, the respective Governments were taking a number of measures to tackle potential problems of racial discrimination. The Government of the Isle of Man, for example, had submitted to the Parliament a race relations bill that prohibited discrimination on the grounds of race, colour, nationality, or ethnic or national origin. The bill, which would become law in early 2004, did not extend to discrimination in all areas of employment, however, since that issue would be dealt with under separate legislation that would address discrimination in employment on the grounds of disability, race, sexual orientation, age or religion. The latter bill would be introduced in Parliament in 2005.

7. Mr. ENTWISTLE (United Kingdom) said that, following a recent debate on the subject in the Parliament of Jersey, a bill would be tabled in Parliament in 2004 to prohibit incitement to racial hatred and discrimination on the grounds of colour, race, disability or ethnic origin. A proposal had also been submitted to the independent Jersey Community Relations Trust for legislation to be enacted that would ban discrimination on any grounds, including disability, age and sexual orientation, and promote equality of treatment and opportunity.

8. Mr. ROBILLIARD (United Kingdom) said that Guernsey took its international responsibilities seriously. Draft legislation to prohibit racial discrimination and punish racially motivated crimes would shortly be tabled in the Parliament and would be a priority of Guernsey's legislative programme.

9. Mr. SMART (United Kingdom) said that even though Scotland was subject to the legislation of the United Kingdom, the Scottish Parliament also had the power to pass legislation and provisions to promote equality were incorporated into all Scottish policies and legislation. The Government worked closely with all ethnic minorities and statutory bodies in Scotland and exchanged experiences with other parts of the United Kingdom with a view to developing solutions that were appropriate to the circumstances of Scotland.

10. Mr. MULLIGAN (United Kingdom) said that Northern Ireland was committed to policies for the promotion of racial equality, in partnership with the representatives of minorities and in close consultation with the Government of the United Kingdom.

11. Ms. HUSSEIN (United Kingdom) said that the National Assembly of Wales did not have the power to enact primary legislation or raise taxes, areas for which the Government of the United Kingdom was responsible. The Assembly proactively ensured, however, that racial equality and justice were built into its policies and social agenda.

12. Mr. GILL (United Kingdom), clarifying the aims of the European Community's article 13 Race Directive, said that the Directive sought to establish a common minimum standard for combating racial discrimination throughout the European Union. Concerns had been expressed about the way in which the Directive was being implemented, but he wished to assure the Committee that implementation had not led to any reduction in the protection provided under the existing legislation of the United Kingdom. Indeed, implementation had extended protection in relation to race and ethnic origin and further amendment to the race

relations legislation was being considered with a view to extending the Directive-led amendments to cover discrimination on the grounds of colour and nationality. In order to meet the deadline for implementation, the Government had decided to implement the Directive by secondary and not by primary legislation.

13. He acknowledged that the United Kingdom's race relations legislation was contained in a number of different instruments amending the 1976 Race Relations Act. That was the way legislation in the United Kingdom developed and he did not accept the proposition that the United Kingdom did not have comprehensive legislation on racial discrimination. Racially and religiously motivated offences and incitement to racial hatred were covered in separate legislation, since they were subject to criminal rather than civil law.

14. Mr. DUKE-EVANS (United Kingdom), referring to the migration policy of the United Kingdom, said that, while his Government was committed to its international obligations towards asylum-seekers, it was also determined to discourage the abuse of its asylum system by persons who did not have a well-founded fear of persecution. It would do so by making it more difficult to enter the United Kingdom illegally, while at the same time creating new opportunities for genuine refugees to enter the country legally, including by shortening the application process and ensuring that persons whose applications were rejected left the country more quickly. The Nationality, Immigration and Asylum Act of 2002 had already closed down a number of areas of recourse within the appeals system. The Government, however, fully intended to respect the fundamental rights of asylum-seekers.

15. The list of "safe countries" prepared by the United Kingdom Government referred to a list of 17 countries from which the United Kingdom had received large numbers of asylum-seekers, but which it now considered to be safe enough for people to return. Those who returned would not lose their right to appeal against the rejection of their application for asylum, but appeals must be filed after their return to their countries of origin.

16. Checks introduced in countries of origin had proven to be immensely valuable in preventing illegal immigration by people who had no valid reason for entering the United Kingdom and were likely to make unfounded claims for asylum. Such checks were entirely legal and in accordance with the international obligations of the United Kingdom.

17. Concerning the treatment of asylum-seekers in the United Kingdom while their cases were being considered, he wished to assure the Committee that the new policy of dispersing asylum-seekers did not jeopardize the provision of services to them. Asylum-seekers, who were given accommodation at public expense, could not choose the city to which they wished to be assigned, since the vast majority would choose to live in London, where services had been on the verge of collapse prior to the introduction of the dispersal system. The new system in fact ensured that more services were available.

18. Asylum-seekers in the United Kingdom were not allowed to accept paid employment, since many people claimed asylum when their real intention was to find work. The Government's view was that people who wished to enter the United Kingdom to work should apply for a work permit in the prescribed manner. The prohibition against employment was intended to remove one of the incentives for abuse of the system.

19. Concerning the programme of accommodation centres for asylum-seekers, which had been announced the previous year, the idea was to provide an alternative model for housing asylum-seekers and providing necessary services while their claims were being processed. The centres would be located in rural areas and educational, health and legal services would be provided. Asylum-seekers would not be detained at the centres but would be expected to spend most of their time there. The centres would be introduced on a trial basis in 2004 and their performance would be evaluated about two years after the opening of the first centre.

20. In response to Mr. Bossuyt, who had observed that the United Kingdom had the highest number of asylum-seekers in Europe and had wondered whether that was because it had no system of compulsory identity cards, he wished to point out that, on a per capita basis, seven European countries had more asylum-seekers than the United Kingdom. The lack of an identity card might well be part of the reason why the United Kingdom was relatively attractive to illegal immigrants and the Government was considering the possibility of introducing such a system. Other reasons undoubtedly included opportunities for illegal work in a thriving economy, the presence of existing minority communities and the fact that English was widely spoken in the countries of origin of many migrants.

21. As for statistics on applications for asylum in the United Kingdom, the most recent published figures indicated that the number of applications had declined from a peak of 9,000 in October 2002 to 4,565 in March 2003. Some 14,400 asylum-seekers, including dependents, had been removed from the United Kingdom in 2002-2003, a 24 per cent increase over the number that had been removed the previous year. The Government had made it clear that it was committed to a further and substantial increase in that figure.

22. Mr. GILL (United Kingdom), turning to the issue of Roma, said that the terms used to define the communities had been decided together with their members. Consequently, the term "Traveller" was used in Northern Ireland whereas "Gypsy/Traveller" had been adopted in Scotland and England. Under United Kingdom race equality legislation, no minority ethnic community was specifically identified. The Scottish Executive, however, recognized Scottish Gypsies/Travellers as a distinctive group with specific requirements. English case law had ruled that Roma and Irish Travellers were protected by race equality legislation but there had been no test case establishing Scottish Gypsies/Travellers as a specific racial or ethnic group.

23. Throughout the United Kingdom Gypsies/Travellers were ensured equal access to all public services, and their unique housing, education and health requirements were increasingly taken into consideration. Research on Gypsy/Traveller accommodation in England had been published, but not in time to be reflected in the Housing Bill, while Scottish local authorities were expected to assess their housing needs. Research into homelessness among them and among other minority ethnic communities was intended to identify the necessary responses.

24. Mandatory school Admission Forums introduced by the Department of Education and Science in England and Wales should prove beneficial to Gypsies/Travellers. Good practice guides for improving schooling for them had been published in Scotland and England, while similar developments were taking place in Northern Ireland. The Government was already engaged in dialogue with the Gypsy/Traveller community to improve ways of meeting their education needs.

25. Progress was being made in the implementation of the Scottish Parliament's Equal Opportunities Committee's report on Gypsies/Travellers and the Northern Ireland Policy Studies Institute report on Travellers.

26. The wide variation in the estimates of the number of Gypsies/Travellers in the United Kingdom was probably mainly due to the difficulty in establishing the numbers living in the settled community and the seasonal variation in numbers living in official and unofficial sites.

27. Turning to Islamophobia and religious discrimination, he said that considerable developments had taken place in recent years. Article 13 of the Amsterdam Treaty outlawing religious discrimination in employment and outlawing discrimination in the areas of age or sexual orientation had been incorporated into domestic law. The Government would explore the possibility of extending article 13 to cover goods and services.

28. The Crime and Disorder act 1998 had introduced the specific offences of racially aggravated violence, harassment and criminal damage. Those provisions had been expanded to include religiously aggravated offences under the Anti-terrorism, Crime and Security Act 2001. Under that Act it could be ascertained whether racial or religious motivation or racial hostility lay behind an offence, in which case the courts could hand down higher maximum penalties. The new legislation was a direct response to concerns among the Muslim community of increased harassment and violence following 11 September 2001.

29. Legislation to outlaw incitement to religious hatred had been rejected by Parliament, but the Government was keeping the issue under review.

30. He agreed that members of minority ethnic groups were often also members of religious communities. The Government was doing all it could to engage with the Muslim and other religious communities and encourage a better understanding of their needs. An Advisory Inter-Faith Group reporting to the Ministerial Steering Group had been set up, along with a Muslim Advisory Panel reporting to the minister. The Foreign and Commonwealth Office had launched the Communities Partnership Unit, in order to develop dialogue with religious and minority ethnic communities in the United Kingdom. Experience showed that the consultation and impact assessments required by the Race Relations (Amendment) Act had led to increased acknowledgment of the needs of religious and ethnic groups by local and national governments, particularly in the health sector.

31. Mr. STEEL (United Kingdom), referring to the United Kingdom's restrictive interpretation of article 4 of the Convention, said that his Government had made its position clear in the past and that position was unchanged. An interpretative statement was not a reservation but expressly recorded what the United Kingdom had always understood to be the correct legal interpretation of article 4 and States parties' obligations under that article. His Government believed that many other States parties shared its view but recognized that many members of the Committee took a different view. His Government treated those views with great respect while regretting the divergence.

32. In practice, however, the positions were not so far apart. The United Kingdom did not assert that the right to freedom of expression was absolute. Paragraphs 7 and 15 of the seventeenth periodic report demonstrated that the Government had legislated to curb the exercise of that right, as urged by the Committee. The Public Order Act 1986 made it an offence to use or publish insulting or abusive words or behaviour with an intention to stir up racial hatred. The United Kingdom tried to strike a balance between protecting the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association, on the one hand, and the objectives of article 4 of the Convention, on the other. His Government kept the situation under constant review and might tip the balance in one direction or other according to the circumstances. Nonetheless, the United Kingdom was convinced that its approach ensured full respect of its obligations under the Convention and its other human rights obligations.

33. Mr. GILL (United Kingdom) said that, under the Anti-terrorism Crime and Security Act 2001, the Government's preferred option was to prosecute terrorist suspects. However, the Act also allowed suspects to be detained for an indefinite amount of time, pending deportation. Article 5 (1) (f) of the European Convention on Human Rights allowed for the lawful arrest or detention of a person against whom action was being taken with a view to deportation or extradition. Case law had found that there had to be a reasonable prospect of the person's removal; Part 4 of the Anti-terrorism Crime and Security Act allowed for long-term detention where there was a barrier to removal. Article 15 of the European Convention allowed for derogations from article 5 in times of war or public emergency. By declaring a state of emergency, the United Kingdom had therefore been able to amend article 5 so that those certified under Part 4 of the Anti-terrorism Act could be detained indefinitely. The Court of Appeal had overturned the decision of the Special Immigration Appeals Commission that the powers under Part 4 of the Act were discriminatory.

34. The Government believed that terrorism represented a fundamental threat to national security, which needed to be addressed without compromising international obligations. It was not true that foreign nationals were immediately subjected to detention under the Act. The criterion for certification under the Act was suspicion of involvement in international terrorism and not nationality. Nevertheless, the United Kingdom was determined to prevent terrorist attacks and the threat to national security was being continuously assessed.

35. With regard to racist incidents, it was his Government's belief that the sharp increase in numbers recorded by the police reflected improved recording and increased confidence among communities. The lack of regular data before the institution of the British Crime Survey made it difficult to establish a trend. The Government encouraged the reporting of all racist incidents so that they could be dealt with effectively. The definition of racist incidents included in the Stephen Lawrence Inquiry Report had facilitated the kind of reporting encouraged by the Government.

36. Turning to the issue of stop and search, he said that the Government fully supported it as an important tool for preventing and detecting crime, provided it was targeted and intelligence-led. Confidence in its use needed to be promoted among all members of the community. In August 2001, the Association of Chief Police Officers had issued a guide to the use of stop and search. The Association's Council had agreed that all police forces in the United Kingdom should begin monitoring the ethnic aspect of vehicle stops, beginning in April 2001. The recommendation in the Stephen Lawrence Inquiry Report that each use of stop

and search should be recorded had begun to be implemented in April 2003. The issue would be addressed in more detail in the following periodic report or, possibly, in a supplementary report. The Government had long recognized the shortcomings of the existing police complaints system. The Police Reform Act 2002 had replaced the Police Complaints Authority with the Independent Police Complaints Commission, due to be fully operational in April 2004. All complaints against the police involving serious racial discrimination would be referred to it.

37. The number of deaths in police custody of persons from minority ethnic communities in 2002 had been 7, compared with 11 in 2001. Since statistics had started in 1996, 55 members of the Black, Asian or other ethnic minorities had died in police custody in England and Wales, 14 per cent of the total. The numbers were too small for any significant statistical conclusions to be drawn.

38. Under the new system, all deaths in police custody and allegations of serious racism would automatically be referred to the Independent Police Complaints Commission, which would carry out investigations independently of the police. Chief police officers would be legally obliged to give them full access to all necessary documents and police premises. The Commission would also be able to supervise police investigations, in compliance with the requirements of articles 2, 3 and 13 of the European Convention on Human Rights. The new system would result in greater involvement, transparency and independence.

39. He agreed that the data provided on deaths in prisons were not sufficiently clear. According to the latest figures there had been 54 self-inflicted deaths in 2003, of which 4 were from ethnic minorities; of the 44 deaths from natural causes, 4 were from ethnic minorities. Although the rate of self-inflicted death in prison was substantially higher than the general suicide rate, it was not greater than that of people under supervision in the community. The prison population included many cases of psychiatric and other disorders, which raised the risk of suicide. The outcome of a three-year proactive strategy to prevent prisoner suicide would shortly be reviewed. The steps to be taken would be decided on in consultation with partner agencies and organizations.

40. Mr. STEEL (United Kingdom) said that the Government of the United Kingdom had clearly set out its position with regard to the non-inclusion of the full substance of the Convention within its domestic legal order, in paragraph 5 of the seventeenth periodic report. The fact that it had incorporated the European Convention on Human Rights could be explained by the different natures of that Convention and the Convention on the Elimination of all Forms of Racial Discrimination. The former Convention set forth the various rights of the individual and could therefore easily be translated into domestic legislation. The latter Convention, on the other hand, listed a number of obligations on the States party and could not therefore be dealt with in the same way.

41. The Committee had raised the question of the United Kingdom's reservations regarding Fiji and Southern Rhodesia on another occasion in the past. The United Kingdom's position had not changed: the United Kingdom was no longer responsible for either territory. In the case of Fiji, the Government's view was that it would not be seemly to purport to withdraw a reservation relating to an independent State - indeed, Fiji itself had entered exactly the same reservation in

its own right. The Treaty Section at United Nations headquarters in New York had advised the Government that there was no obligation to withdraw the reservations, and that advice had been communicated to the Committee's secretariat. He respectfully requested that the matter should be allowed to rest there.

42. Mr. GILL (United Kingdom), referring to Committee members' questions concerning section 19 D of the Race Relations (Amendment) Act, said the Act represented a major step forward since it outlawed, for the first time, racial discrimination by public authorities, including police and immigration authorities. A limited exemption applied to immigration functions. Immigration control inevitably involved differential treatment on the basis of nationality or ethnic or national origin. Section 19 D provided that discrimination on the basis of nationality or ethnic or national origin was not unlawful if required by immigration legislation or expressly authorized by Ministers who were accountable to Parliament. Existing authorizations allowed prioritization of passengers and asylum-seekers for examination on the basis of nationality - an essential selection procedure given the large numbers involved: 20 million of the 90 million yearly arrivals were foreign nationals subject to control. The operation of those limited powers was monitored by an independent statutory body reporting to Parliament. In short, the provision was not a licence to discriminate: it enabled immigration authorities to focus their resources and each case was examined on its merits.

43. Turning to the issue of human rights institutions, he said his Government was currently considering proposals for a single equality body for England and Wales, which would cover discrimination on the grounds of race, gender, disability, religion or belief, age and sexual orientation. Whether and to what extent such a body should have a human rights function was also under consideration and it was hoped a decision would be taken in September 2003. In Scotland, the Scottish Executive would be presenting legislation on an independent human rights commission as soon as was feasible, in the light of a recent consultation process. In Northern Ireland, contemporary human rights concerns, particularly in the context of the peace process, had prompted the Government to establish the Northern Ireland Human Rights Commission in 1998. The Commission was currently consulting widely on the question of a bill of rights for Northern Ireland.

44. The United Kingdom was conducting a review of all its human rights obligations, including the question of a declaration under article 14 of the Convention. It had noted the importance the Committee attached to the question and would inform the Committee of the outcome of that review in its next report.

45. The origin of the misconceptions over the proportions of ethnic minorities in the United Kingdom was unclear. The figure of 9 per cent applied to the country as a whole, but the proportion varied widely from place to place. Possibly people living in areas with a higher percentage assumed that that proportion was representative of the country as a whole. Whatever the case, the census figures had received widespread coverage in the media, which might help to dispel the apparent misunderstanding.

46. He said the United Kingdom's report had been circulated in draft form to a wide range of NGOs, including members of the NGO Steering Group on the National Action Plan against Racism.

47. No decision had yet been taken on the introduction of an identity card in the United Kingdom, but the Government had carried out public consultations.

48. Caste-based discrimination was not specifically covered by United Kingdom legislation. There was no data indicating to what extent Dalits in the United Kingdom were discriminated against, marginalized or excluded, but it was reasonable to assume that it was no more or less of an issue in the United Kingdom than in other countries with similar Indian communities. The Government had no plans to introduce specific legislation on caste.

49. Mr. ABOUL-NASR said the delegation had provided excellent answers to Committee members' questions. He felt it had been somewhat provocative in some of its opinions and comments, however, which had raised a number of questions in his mind.

50. For example, how were "asylum-seekers" or "refugees" defined? It was well known that the population of the United Kingdom was declining and that it was in the country's interest to bring people in to swell the workforce. What criteria were applied in selecting them? Was it their level of education, for example, or their willingness to do jobs that British people would not do?

51. He also wondered what the definition of a "terrorist" was. Were those who defended their country against foreign occupation - as was currently happening in Iraq - terrorists or heroes? During the Second World War, Hitler would no doubt have considered members of the French Resistance terrorists. Or was the criterion a racial one? He and others in the Arab world were very concerned at the situation of Arabs and Muslims in the United Kingdom.

52. With regard to article 4 of the Convention, he said he could not accept that the delegation and the Committee merely "agreed to differ". In effect, the United Kingdom was refusing to implement the Committee's recommendations, and he wondered why the delegation did not simply admit that. No member of the Committee believed article 4 should not be applied on the grounds of freedom of speech.

53. Mr. VALENCIA RODRIGUEZ said he welcomed Mr. Steele's explanation of the scope of the United Kingdom's interpretative statement on article 4. The delegation had explicitly acknowledged that freedom of expression and freedom of assembly were not absolute or non-derogable, recalling that the United Kingdom had enacted legislation curbing the right to exercise those freedoms in certain cases. He said he was confident that those restrictions would apply to the dissemination of racism and race hatred, and in the prohibition of racist organizations and associations. He believed the statement helped to reconcile the positions traditionally held by the Committee and the United Kingdom Government, although certain areas of disagreement remained. He therefore considered it best to leave things as they stood and, as Mr. Steele had put it, "agree to differ".

54. Mr. SHAHI said he was glad to note that the United Kingdom was considering prohibiting discrimination on religious grounds in the provision of goods and services, a development long sought by the Committee and NGOs. He hoped that gap in the legislation would have been filled by the time the next report was submitted.

55. He, too, welcomed the delegation's statement on article 4. In the light of the serious deterioration in the climate of tolerance since 11 September 2001, with increasing manifestations of racism, and the curtailment of civil liberties, he hoped the United Kingdom would continue to review the balance it believed it had achieved between respect for freedom of expression and the need to criminalize hate speech.

56. He regretted that Parliament had been unable to enact legislation prohibiting Islamophobic hate speech: he had been astonished and shocked to read accounts of Christian communities, which shared so much with Islam, propagating expressions of hatred, and he hoped the Government would continue its efforts to combat Islamophobia.

57. Mr. LINDGREN ALVES said he found the delegation's explanations concerning the Anti-terrorism, Crime and Security Act unconvincing. The war on terrorism was an unusual one in that there was no identifiable enemy. It was a matter for some concern that a state of emergency could be declared in order to place suspects in incommunicado detention on grounds that might be far from clear - possibly even simply because they looked different, as had happened in the United States after 11 September 2001, when a number of Brazilians had been detained for some months basically because they looked Arabic. He could not accept that such a situation promoted human rights, and he felt that the Committee should convey its concern to the United Kingdom Parliament.

58. Mr. de GOUTTES, with regard to implementation of article 4 of the Convention, noted that the Crime and Disorder Act 1998 had introduced the specific offences of racially aggravated violence, harassment and criminal damage and allowed the courts to impose higher maximum penalties for racially motivated offences. He wondered, however, whether the Government might envisage making racial motivation an aggravating circumstance for all offences, as recommended by the European Commission against Racism and Intolerance. With regard to implementation of the European Community's article 13 Race Directive, he asked whether it was true that the State party did not consider discrimination based on colour to be racial discrimination, which would be a violation of the Convention.

59. Mr. HERNDL said there was clearly a difference of opinion between the Committee and the State party with regard to its obligation under article 4 (b) to prohibit organizations and propaganda activities which promoted racial discrimination. The State party's interpretative declaration with regard to article 4 (b), while carefully phrased, clearly did not meet its obligation to implement that article. The same problem existed with the State party's interpretative declaration with regard to article 20 (2) of the International Covenant on Civil and Political Rights and the tension between those articles and the right of freedom of expression.

60. He wished to reiterate his question concerning implementation of International Labour Organization Convention No. 111 concerning Discrimination in respect of Employment and Occupation, in particular with regard to increasing the numbers of women and minorities represented in the civil service, especially at senior levels. He had taken note, however, that targets of 35 per cent for women and 3.2 per cent for minorities at senior levels in the civil service had been set for 2005 and he looked forward to further information in that regard in the next report.

61. Mr. KJAERUM said the State party should make a greater effort in the area of caste-based discrimination. One advantage of incorporating the Convention into domestic legislation would be that it prohibited descent-based discrimination, which was not the case for current United Kingdom legislation. He reminded the delegation that the Committee had determined discrimination on the basis of descent to be a form of racial discrimination. With regard to efforts to combat terrorism, although he recognized the difficulty of that task, he expressed concern that the State party's internment powers had been used only against Muslims and recalled the Committee's position that the fight against terrorism should not cause discrimination against any group in particular. The freedom, security and dignity of the person, equality before the courts and due process must be respected at all times. He was also concerned by section 19 D of the Race Relations (Amendment) Act and was not convinced of the need to allow discrimination based on nationality in immigration policies. He wondered how that could be justified and what the effects of that policy might be.

62. Mr. YUTZIS noted that the Durban World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance had called on States to remove restrictions and reservations relating to the Convention, in particular articles 4 and 14, and recalled that freedom of the press and freedom of expression were not absolute rights if those rights were exercised to promote discrimination. There had also been protracted discussions in Durban on the notions of race and colour and he asked whether the State party would eliminate the distinction between colour and race in its legislation.

63. Mr. BOSSUYT was of the opinion that the distinction between race and colour was not an important one given that international standards prohibited any arbitrary distinctions between individuals or groups, whether explicit or not. With regard to discrimination based on nationality for persons entering the country, he said such measures tended to arise in the context of bilateral or multilateral agreements, on a reciprocity basis, and therefore did not qualify as discrimination under international human rights law. He noted that in English discrimination was not necessarily a negative term and that a better term might be differential treatment in order to avoid confusion with regard to international standards.

64. Mr. DUKE-EVANS (United Kingdom), in response to a question raised by Mr. Aboul-Nasr, said that an asylum-seeker was defined as any individual who made a claim to the Government that he was entitled to protection under the 1951 Convention relating to the Status of Refugees. In the case of a favourable decision the individual would be reclassified as a refugee, whereas in the case of an unfavourable decision he would be reclassified as a failed asylum-seeker. With regard to economic migrants, he said that his Government recognized and welcomed the valuable contribution those migrants made to the country but felt that such individuals should apply openly for immigration through official channels and not abuse the asylum system. Although it was true that priority was given to those with special skills, such as engineers or nurses or even football players, unskilled workers, for example in the agricultural field, had also been welcomed.

65. Mr. GILL (United Kingdom), speaking with regard to the issue of discrimination based on colour, said that the country's domestic legislation prohibited discrimination on the basis of race, ethnic origin, colour, nationality or national origin. The European Race Directive, however, referred only to race and ethnic origin; in the specific secondary legislation to enact that Directive it had not therefore been possible to go beyond the terms of the Directive itself, in

spite of the existing and more wide-ranging definition included in domestic legislation. In other words, the Directive enhanced protection against discrimination, but only with regard to race or ethnic origin. His Government was aware of the problem but felt the benefits of the enhanced protection would outweigh any disadvantages. Steps would have to be taken to strengthen protection against other types of discrimination through primary legislation.

66. Mr. PILLAI (Country Rapporteur) noted the State party's efforts to respond to the Committee's concerns with regard to implementation of articles 2 and 4 of the Convention, including through legislation and incorporation of the European Race and Employment Directives into domestic law. More, however, needed to be done to ensure full implementation of the Convention. Additional information should be provided on the situation in the overseas territories, as well as on the current status of the Channel Islanders. Although the State party had acted to improve the social, economic and cultural situation of marginalized groups, it should consider taking further affirmative action in accordance with article 2, paragraph 2, of the Convention. He thanked the delegation for its replies and its regular reporting and said he looked forward to its next periodic report.

67. Mr. GILL (United Kingdom) thanked the Committee for facilitating a most helpful dialogue with his delegation. He looked forward to receiving the Committee's concluding observations and said all possible supplementary information would be provided to the Committee.

68. The CHAIRMAN thanked the delegation for a very positive dialogue with the Committee, which was encouraged by the State party's efforts to strengthen its legislation and institutions for the prevention of racial discrimination. Although concerns and differences of opinion remained, that was inevitable given the constant challenges to be faced in an evolving multicultural society. The key was to ensure the necessary political will to deal with such problems.

The meeting rose at 12.50 p.m.