



# 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 first part (public)\* of the 1627th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 3 March 2004, at 10 a.m.

*Chairperson:* Mr. Yutzis

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

*Fifteenth to seventeenth thematic reports of the Libyan Arab Jamahiriya* (continued)

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\* The summary record of the second part (closed) of the meeting appears as document CERD/C/SR.1627/Add.1.

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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** (item 6 of the agenda) *(continued)*

*Fifteenth to seventeenth thematic reports of the Libyan Arab Jamahiriya (CERD/C/431/Add.5) (continued)*

1. *At the invitation of the Chairperson, the members of the delegation of the Libyan Arab Jamahiriya took places at the Committee table.*
2. **The Chairperson** invited the Libyan delegation to respond to the questions raised orally by members of the Committee at the previous meeting.
3. **Mr. Abuhameida** (Libyan Arab Jamahiriya) said that the principles on which equality between all Libyan citizens rested were very ancient, since they went back to a period before the creation of the Libyan State, being rooted in natural law, in tradition and in the religion of Libyan society. Thus, whether or not there existed laws in the matter, the principals concerned assumed higher authority and could not be ignored.
4. Racial discrimination was unknown in Libyan society and there was no need to adopt specific legislation to combat the phenomenon. That said, where there was a conflict between domestic legislation and the Convention, it was the provisions of the latter that prevailed. In keeping with that principle, the Convention was binding upon the judicial authorities.
5. With regard to the situation of the Berber and Tuareg peoples, it should be pointed out firstly that, according to most historians, including Western Orientalists, the Berbers were of Arab origin and came to North Africa from Yemen before the arrival of Islam. The Berber and Tuareg peoples represented only a very small proportion of the total population of the Libyan Arab Jamahiriya and did not constitute a minority as such since Libyan society was a unified Muslim society, of which the peoples concerned formed an integral part. He recognized that no special school existed in Libya for instruction in the Berber dialect, but no complaint had been made in that regard. The laws in force governed the way in which the Tuareg peoples, who lived in the south of the country, had to prove their Libyan origin in order to obtain Libyan nationality. In short, while there might be a Berber problem in other countries, it was not the case in the Libyan Arab Jamahiriya, and it was possible that the question was being exploited with the aim of Balkanizing the country or encouraging sectarianism or communalism.
6. Concerning the rights of migrant workers, the representative of Libya said that Libyan legislation governed the conditions for entering and leaving Libyan territory and fixed the conditions applicable to the stay of foreigners in Libya consistent with international and bilateral instruments, including the African Charter on Human and People's Rights, to which the Libyan Arab Jamahiriya was party. The case of the five Sierra Leonean citizens raised by the Committee had in fact been explained in detail to the African Commission on Human and Peoples' Rights.
7. With regard to freedom of expression, Mr. Abuhameida pointed out that Law No. 23 of 1998 on confederations, trade unions and professional associations and Law No. 19 of 2000 on the reorganization of NGOs defined the legal framework within which professional or business organizations and non-governmental organizations could make their opinions known.
8. He said that the Libyan Civil Code contained binding provisions applicable to non-Muslims in the matter of personal status, with particular reference to inheritance.

9. Concerning the Committee's recommendation on the rights of the child with respect to school curricula, he pointed out that, since 1997, courses on human rights and combating torture were included in the curriculum of academies, schools and institutions where members of the police force, law enforcement personnel and members of the judiciary were trained.

10. In conclusion, Mr. Abuhameida said that the Libyan authorities attached particular importance to the work and recommendations of the Committee. He hoped that it was conscious of the many initiatives taken by the Libyan Arab Jamahiriya in recent years in the humanitarian and human rights fields, with particular reference to the Muammar Kadhafi prize for human rights, the initiatives taken in the fight against HIV/AIDS in Africa and the examination by the People's Congress of 23 draft human rights laws.

11. **Mr. Shahi** noted that, according to paragraphs 23 to 33 of the State party's report, the provisions of the Convention were binding and took legal precedence over domestic law. However, in the absence of a legal provision expressly penalizing the offences specified under article 4 of the Convention, he wondered how its provisions were implemented in practice. Moreover, given that there were just over 400,000 foreign workers in the Libyan Arab Jamahiriya, he was astonished to find that not a single case of discrimination had come before the Libyan courts. He found it difficult to imagine that no case of that kind could occur in future and wondered to what extent the victim of a discriminatory act could obtain redress when the law did not categorize the act as an offence and did not define the applicable penalties.

12. **Mr. de Gouttes** welcomed the Libyan delegation's spirit of openness, which had likewise characterized the contacts in 2001 and 2002 between the Libyan authorities and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. At that time, following xenophobic incidents affecting migrant workers, the Libyan Government had informed the Special Rapporteur that a commission had been set up to enquire into the incidents, that meetings had been organized with the participation of members of the Government and accredited ambassadors in Tripoli, and that a joint commission had been created under the auspices of the African Union. Mr. de Gouttes would like information on the implementation and follow-up of those measures.

13. **Mr. Aboul-Nasr** noted the statement by the delegation that the standards applicable to respect for individual rights formed part of a long tradition. Custom was indeed one of the sources of law, but article 4 of the Convention explicitly requested States parties to take positive measures to make acts of discrimination a criminal offence and to define specific penalties applicable to such offences.

14. **Mr. Boyd** welcomed the fact that 23 human rights bills were currently before the People's Congress. He also noted that the Great Green Document on Human Rights in the Age of the Masses as well as other bills contained very positive provisions with regard to the protection of human rights. However, he would like to know what the specific effect of those provisions was on the everyday lives of minority populations, such as black Africans, Berbers or Palestinians. How far, for example, were such minorities represented in the country's civil service at the national or local level, in posts of political responsibility or in the business world?

15. **Mr. Abuhameida** (Libyan Arab Jamahiriya) said that the Convention formed an integral part of Libyan legislation and that many provisions defined discriminatory, racist or xenophobic crimes and provided for penalties to punish them.

16. The rights of foreign workers in Libya were also guaranteed under a variety of provisions relating to residence, access to property and working conditions, in keeping with various international conventions to which Libya was a party. In those areas, the rights of foreigners were identical to those of Libyan citizens. Where such provisions were violated,

whether by a civilian or a State representative, the victims could have recourse to the national courts at all levels of jurisdiction, namely courts of first instance or appeal, the Appeal Court and even the Supreme Court. Indeed, many cases of discrimination against African workers involving members of the security forces were currently in progress, which testified to the State's goodwill in that regard.

17. **Mr. de Gouttes** said that, whatever the country concerned, the Committee could not subscribe to the idea that a society was wholly free of racial discrimination, racism and xenophobia and that the Committee should recommend that the State party adopt comprehensive legislation to prohibit acts of that kind.

18. **Mr. Shahi** wished to know if the text of the Convention had been translated into Arabic and distributed to the courts and to the People's Congress as well as to migrant workers living in Libyan territory.

19. **Mr. Abuhameida** (Libyan Arab Jamahiriya) assured members of the Committee that the delegation would convey to the Libyan authorities the Committee's recommendation on strengthening the application of article 4 of the Convention. He added that, like other international conventions, the Convention on the Elimination of All Forms of Racial Discrimination had been incorporated in various procedural codes.

20. **Mr. Thornberry**, quoting paragraph 25 of the State party's report, asked the Libyan delegation to specify the minorities to which reference was made in Principle 16 of the Great Green Document on Human Rights in the Age of the Masses, promulgated in 1988. With regard to paragraph 3 of the same report, according to which Libyans were all of the same racial origin, he wondered whether there were not differences between some ethnic groups in the State party — for example, in terms of their language — such as the Berbers. If so, care must be taken to ensure that such groups were not the target of discrimination.

21. **Mr. Abuseif** (Libyan Arab Jamahiriya) reaffirmed that the Berbers, like the Tuaregs, were Libyan, Arab and Muslim and were an integral part of Libyan society. They were but one tribe out of 20 or so that made up the country's population and were in no way the victims of school segregation or discrimination of any kind. Acts of racism were doubtless committed among the tribes, but they were no more than sporadic manifestations, not a systemic phenomenon.

22. With regard to Principle 16 of the Great Green Document on Human Rights in the Age of the Masses, he explained that the document was comprehensive in scope and applied not only to Libya but to humanity in general. The minorities in question did not therefore necessarily live in Libya. Mr. Abuseif was surprised that the Committee's experts should place such emphasis on the question of minorities in general and Berbers in particular. Had the Committee received complaints from the Berbers?

23. **Mr. Thornberry** said that it had not and that his questions on the subject simply reflected the wish to know more about the situation in the country.

24. **Mr. Boyd** explained that the only reason for the various questions posed on Libyan minorities was to enrich the debate and promote the sharing of information and knowledge.

25. **Mr. Pillai** expressed his appreciation of the dialogue established with the delegation and the spirit of cooperation that had presided over the review of the fifteenth to seventeenth periodic reports of the Libyan Arab Jamahiriya. He drew the delegation's attention to the fact that information would be welcome in the next periodic report on the legislation adopted by the State party to implement the provisions of the Convention as a whole. It was important in his view that the Government should examine the remedies available to victims of discrimination, racism and xenophobia and the sentences imposed on the perpetrators of such acts.

26. He also remarked that the Committee could not accept the assertion that a State party, whichever it might be, did not experience any problem of discrimination. He therefore invited the delegation to reflect on the different forms that the phenomenon could take and to review its position accordingly. He added that the Committee was concerned not only by systematic acts of discrimination but also by sporadic manifestations. He would like the State party to include in its next report information on cases currently in progress involving discrimination towards African workers as well as the measures that the Government had taken or intended to take to protect the public against xenophobic acts, which had proliferated since the terrorist attacks of 11 September.

27. **Mr. Abuhameida** (Libyan Arab Jamahiriya) thanked Mr. Pillai for his comments and the Committee members for their spirit of cooperation and stressed that Libya was entirely ready to listen to criticisms so long as they were justified. The Libyan delegation had not understood the emphasis placed by some members of the Committee on the question of minorities but it hoped that its replies had been sufficiently clear and convincing.

*The first part (public) of the meeting rose at 11.45 a.m.*