



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 2335th meeting

Held at the Palais Wilson, Geneva, on Monday, 4 May 2015, at 3 p.m.

Chairperson: Mr. Calí Tzay

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Combined twelfth to sixteenth periodic reports of the Sudan

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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 *(continued)*

Combined twelfth to sixteenth periodic reports of the Sudan (CERD/C/SDN/12-16 and CERD/C/SDN/Q/12-16)

1. *At the invitation of the Chairperson, the delegation of the Sudan took places at the Committee table.*
2. **Mr. Tungo** (Sudan) said that human dignity was the buttress that upheld equality and non-discrimination – an absolute truth confirmed by all religions, including Islam. The Sudan was a multicultural, multilingual, multiracial, multi-ethnic and multi-religious State that was rich in human diversity. The people of the Sudan lived side by side without discrimination, and the modern State ensured their peaceful coexistence.
3. The State party report reflected the efforts that had been made to fully implement the Convention and to eliminate all forms of racial discrimination in the Sudan, as well as the progress achieved in that regard. During the period covered by the report, the State party had undergone significant political, social and economic changes that had posed formidable challenges. A number of assessments had been made in the aftermath of those changes, some of which had produced contradictory results that further complicated matters for external observers. The Sudanese delegation therefore wished to show transparency and objectivity in its work with the Committee.
4. The State party strived to ensure that peace reigned for the benefit of all its people. Dialogue was the only way to resolve conflict, which was why the Government had chosen to enter into negotiations with the armed groups that had threatened peace and security and launched attacks against it in Darfur. Such negotiations had led to the conclusion of three peace agreements: the Comprehensive Peace Agreement of 2005, the Darfur Peace Agreement of 2006 and the Doha Peace Agreement of 2011.
5. The interim Constitution had been in place since 2005 and had put an end to a longstanding civil war that had begun prior to the independence of the Sudan in 1956. The principles of the Convention were encompassed in the Constitution, which stated that the Sudan was a democratic, decentralized, multicultural, multilingual, multiracial, multi-ethnic and multi-religious country where such diversities coexisted and where religions and cultures were sources of strength, harmony and inspiration. The State was committed to the respect and promotion of human dignity and was founded on justice, equality and the advancement of human rights and fundamental freedoms. The State ensured multipartism. The Constitutional Court played a vital role in the protection of human rights, as it established legal precedents based on the Constitution and international treaties.
6. Referring to a question from the list of themes regarding the place of the Convention in domestic law, he said that two footballers, who had become Sudanese through naturalization, had filed a complaint of racial discrimination before the Constitutional Court. They had challenged a football regulation prohibiting more than one naturalized Sudanese citizen from playing for the same football club during the same season. The regulation, which had distinguished naturalized citizens from others, had been deemed unconstitutional by the Constitutional Court and had subsequently been changed. When issuing its decision, the Court had quoted articles 25 and 26 of the International Covenant on Civil and Political Rights, the preamble of the Charter of the United Nations, as well as the Constitution, which gave precedence to international conventions to which the Sudan was party. Such conventions, including the International Convention on the Elimination of Racial Discrimination, were considered to be an integral part of the Constitution.

7. A committee had been established to draft an anti-discrimination law. The bill in question would refer to the Convention and the relevant articles of the Constitution and would be promulgated following submission to the parliament in June. Once it was adopted, article 64 of the Criminal Code would have to be amended, and thereafter any incitement to religious hatred or racial discrimination would be considered an offence. The Government had taken a series of measures to amend, revoke or denounce any legislation that could give rise to racial discrimination.

8. In 2013 the Government had launched its national plan for the protection and promotion of human rights, which aimed to raise awareness of economic, social, cultural, civil and political rights. Moreover, the National Human Rights Commission had been established in 2009, in accordance with Paris Principles. Pursuant to article 142 of the Constitution, the Commission consisted of 15 independent, competent, non-partisan and impartial members. It received complaints regarding violations of the rights and freedoms provided for in the Bill of Rights and issued recommendations to the relevant bodies.

9. Sudanese legislation did not include terms such as “ethnic” or “ethno-religious”. Because of its geographical situation, the Sudan was a meeting place for civilizations from the Mediterranean, Asia and Africa and was home to a large number of very diverse racial groups. The country boasted more than 100 languages and dialects and over 50 ethnic groups that included some 900 subgroups. In the light of such diversity, it was almost impossible to define major differences that would give rise to discrimination.

10. Ethnic and cultural diversity was respected throughout the Sudan. The states of South Kordofan and Blue Nile had been granted special administrative status under the Constitution, with greater independence and autonomy, taking into consideration their particular situations. In spite of the challenges, which included the presence of armed groups in certain areas, the State party had maintained a dialogue with the relevant stakeholders and had worked to ensure the development and prosperity of the two states. Moreover, the customs and traditions of the two states were protected by national legislation, and access to justice was strengthened through the use of customary law, local courts and local mediation mechanisms.

11. In the states of Kassala and Red Sea, in the eastern part of the country, many tribes coexisted peacefully without suffering from any discrimination, and stability had been improved by the signing of a peace agreement in 2006. A plan had been developed to rebuild Kassala and Red Sea states, which faced economic problems caused by ongoing conflict and external sanctions, in particular by strengthening the health and education sectors and guaranteeing access to services. In both states, large numbers of refugees from neighbouring countries were accommodated with local families or in houses rather than in refugee camps in order to maintain the living conditions of the local population and ensure the enjoyment by the refugees of their basic rights, such as the rights to education, health care and decent housing. The Humanitarian Aid Commission addressed the needs of migrants and refugees, in accordance with the peace agreements and international treaties in force. Migration policy was aimed at fostering good relations between established and incoming populations. Villages offering basic services such as the provision of drinking water, sanitation, access to education and health care and basic agricultural training had been established in West and South Darfur to encourage people to resettle.

12. Recruitment to positions in the public service was regulated, and candidates were selected through transparent and free competition on the basis of recruitment needs. The law usually excluded foreigners from entering the public service, since it stipulated that the Sudan should be governed by the Sudanese. Entry into the police training academy was open to all citizens, regardless of origin, gender, skin colour, political affiliation or religion, through a transparent competitive selection process. The Constitution set out citizens’ rights and duties with regard to political participation, without any discrimination on the basis of

political belief, religion or skin colour. The 2015 elections had taken place smoothly and all citizens of the Sudan had been able to participate in them.

13. The Governments of the Sudan and South Sudan were working with international organizations to register Sudanese citizens in South Sudan and provide them with identity documents.

14. Under legislation enacted in 2014 to combat trafficking in persons, anyone transporting persons into the Sudan without their consent was liable to a fine, imprisonment, or both. Many perpetrators of human trafficking had been tried by the courts. Workshops on ways to combat trafficking in persons had been held in cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR). Additional local regulations had been introduced in the state of Kassala, which was particularly affected by the problem. The number of registered cases of trafficking had fallen sharply between 2012 and 2014. In 2014, the Government had taken part in international conferences addressing the problem in Khartoum and Rome, where the emphasis had been placed on national strategies, bilateral and regional action and the protection of refugees and asylum seekers. A bilateral conference held in May 2014 had highlighted the importance of cooperation between the Sudan and Ethiopia for the extradition and prosecution of persons accused of human trafficking and the need for appropriate equipment in migrant and refugee centres to record the details of all persons requesting asylum. Trafficking in persons was recognized as a risk in all refugee camps.

15. The Government had established the Special Criminal Court on the Events in Darfur and a special post of prosecutor to investigate crimes committed there and to hear grievances related to the events of 2003 in that region.

16. **Mr. Khalaf** (Country Rapporteur) welcomed the high-level delegation of the Sudan and the efforts made by the State party to combat racial discrimination and violence. Recalling the recent history of the Sudan, he noted that significant efforts had been made to emerge from conflict and consolidate peace through peace agreements and democratic processes, with support from international and regional partners, including the African Union and the United Nations. Tensions had re-emerged, however, in 2013 and 2014, leading to violence between armed groups and government forces and the forced displacement of large numbers of persons. Human rights violations and extensive sexual violence had taken place in North Darfur and had affected many groups, including refugees and humanitarian workers. International forces too had been subjected to attacks that had led to loss of life.

17. The situation of refugees in the Sudan had been aggravated by trafficking in persons, kidnapping and other forms of exploitation. Internally displaced persons in the Sudan, such as members of the Nubian tribes, had been displaced for many different reasons, including dam construction and inter-tribal conflicts, and had often been forced to move more than once. He asked what the State party did to ensure access by national and international humanitarian organizations so that they could provide assistance to all persons in need.

18. The delegation should inform the Committee why the freedom of certain journalists had been restricted and should explain the reasons for the closure in June 2014 of the Salmah Women's Resource Centre, which had housed civil society organizations advocating for women's rights and education. The State party asserted in its periodic report that Sudanese society was composed of different tribes, rather than different racial groups. The delegation should explain in more detail the social composition of the Sudanese people. It would be useful to obtain the names of the members of civil society who had discussed and amended the periodic report prior to its submission to the Committee, particularly given the lack of information from alternative sources such as civil society organizations.

The information provided in the core document (HRI/CORE/1/Add.99/Rev.1) should be updated in light of the separation of the Sudan and South Sudan in 2011.

19. Noting that, according to the Constitution, international treaties ratified by the Sudan were part of Sudanese law, he asked how that principle was exercised in practice, whether the courts applied the provisions of international treaties, and, if so, how often, and whether international treaties were given precedence over domestic law. He expressed concern that the interim Constitution remained in force, despite the fact that the interim period had ended. Stressing the importance of including a definition of racial discrimination in line with article 1 of the Convention in domestic law, he asked whether the State party had any plans to amend its law accordingly. The Sudan did not yet have any specific legislation prohibiting racial discrimination. It was not sufficient simply to refer to article 31 of the interim Constitution, which provided for equality before the law without discrimination. He expressed concern that a recent amendment to the Nationality Act, which provided the State with discretionary power to withdraw Sudanese nationality, might give rise to a new category of stateless persons if Sudanese nationals were stripped of their nationality without being granted citizenship of South Sudan.

20. It was regrettable that most of the statistical information provided was not disaggregated by region or ethnic group, which meant that it would be of little use in developing future strategies against racial discrimination. Although details of the nomadic population had been provided, there was no information on how the State ensured the provision of health, education and housing services to that group.

21. He welcomed the establishment of the National Human Rights Commission and asked what guarantees were in place to ensure the independence of its members, what budget was available to it, whether it undertook inquiries and whether it had sought accreditation from the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. He expressed concern that, under a recent constitutional amendment, the President was authorized to allocate plots of land for investment purposes, without restriction. Lastly, he would welcome information on the Special Criminal Court on the Events in Darfur, including the number of cases it had examined and any rulings it had handed down.

22. **Mr. Murillo Martínez** said that the State party's efforts to achieve stability and peace should be recognized. According to the State party report, self-sufficiency projects set up for refugees had foundered for reasons of external politics. What were the circumstances hindering such efforts? He would welcome more information on the country's linguistic diversity. Observing that situations of internal displacement provided the ideal breeding ground for criminal activity such as trafficking in persons, he said that he would welcome further information on such crimes and would like to know whether the corresponding penalties were in line with international standards.

23. **Mr. Yeung Sik Yuen** expressed concern that in the Sudan, a woman's consent to marriage was given by male members of her family rather than by the woman herself, which was a flagrant violation of the principle of gender equality. Was the punishment of stoning still applied to women accused of adultery, and was any similar punishment applied to male adulterers? It was his understanding that women's testimony carried only half the weight of men's testimony in judicial cases. Was that rule actually prescribed by law, or was it simply a rule of thumb? He wished to know whether judges had any discretion in practice in evaluating conflicting evidence provided by a man and a woman.

24. He invited the delegation to comment on the situation of the National Intelligence and Security Services, which had a reputation for targeting persons who did not support the Government and harassing minorities, and the fact that its officials enjoyed immunity from prosecution and were not subject to judicial control. Both the Constitutional Court and the

Supreme Court appeared to have jurisdiction to rule on the constitutionality of laws. Was there any demarcation in their mandates, and how many constitutional challenges had been presented to each? With regard to the independence of the judiciary, he asked whether the schedule of emoluments for the judiciary was amended periodically to compensate for fluctuations in the cost of living and, if so, who was responsible for making such changes. It would be preferable for judges not to be covered by immunity from criminal prosecution if it was proven that they had acted maliciously. He would be interested to know whether the National Human Rights Commission was in compliance with the Paris Principles and whether it had received accreditation. The delegation should also comment on whether the Advisory Council for Human Rights could have been merged with the Commission.

25. **Mr. Avtonomov** requested clarification of the differences between the National Human Rights Commission, the Advisory Council for Human Rights and the Public Grievances and Corrections Board and asked whether all three institutions were still in existence. He would welcome further information on the strategic plan for 2014–2018 adopted by the National Human Rights Commission, and specifically on the measures to prevent and address racial discrimination. What was the State party's position on the possibility of ratifying the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization (ILO)?

26. **Ms. Dah** welcomed the fact that, despite the difficulties it continued to face, the Sudan had shown a commitment to meeting its human rights obligations, having presented its report to the Human Rights Council in 2011. She said that it was high time that the State party produced a new common core document to reflect the geographic, ethnocultural and institutional changes the country had undergone since 1999. She would be interested to know how the process of drafting a final Constitution was progressing. Would the new Constitution contain a provision establishing that the rights enshrined in international treaties formed an integral part of the Constitution? She also wished to know the status of the bill on racial discrimination and details of its content. Specifically, did it contain a definition of racial discrimination in line with the one in the Convention? She wondered whether racial discrimination constituted an aggravating circumstance in criminal law.

27. With regard to women's rights, the Committee was concerned about the intersectionality between racial and gender-based discrimination. She would be interested to hear the State party's position on the possibility of ratifying the Convention on the Elimination of All Forms of Discrimination against Women and the outcome of the consultations held on that matter. Because of the lack of disaggregated data on minorities provided by the State party, the Committee was unable to identify which women were likely to be the victims of intersectional discrimination.

28. She wished to know what status the National Human Rights Commission had in the institutional framework and, if it was in compliance with the Paris Principles, whether it had received "A" or "B" status accreditation. Were there any plans to increase the Commission's resources and independence? She also asked whether the office of the Special Prosecutor for Crimes in Darfur was still active and approximately how many cases it had handled. She requested clarification on whether the national census included questions on ethnicity. Lastly, she encouraged the State party to refer to the guidelines for the drafting of reports to the Committee when preparing its next report.

29. **Mr. Kemal** asked what steps the Government was taking to address the problems faced by the population of Darfur. In particular, he wished to know what was being done to enable internally displaced persons in Darfur and other regions to return to their homes. The delegation should also provide information on measures to help the Dinka people, who were reportedly suffering great hardship, and refugees.

30. **Mr. Diaconu** said that, although a number of projects and programmes were mentioned in the State party's report, information on their implementation was generally lacking, as were details of the impact of conflicts on tribes and ethnic groups. Noting that, according to the report, sedition or incitement to hatred among or against communities was recognized as an offence, he said that incitement to violence and to racial discrimination too should be classified as offences under the Criminal Code.

31. He would appreciate information on the number and outcome of complaints filed with the Public Grievances and Corrections Board and on the division of responsibility between the Board and the complaints committee established under the Advisory Council for Human Rights. The delegation should also elaborate on the situation of the Nuba people and on the consequences of the decision by UNHCR to suspend international assistance to Ethiopian and Eritrean refugees.

32. **Mr. Bossuyt** asked when, why and in what circumstances international assistance to Ethiopian and Eritrean refugees had been suspended. He also wished to know the countries of origin of illegal migrants and whether voluntary repatriation programmes had been carried out.

33. The delegation should indicate whether the Public Service Pensions Act of 1993 contained provisions for the widows of pension holders. In the Constitution, the Sudan was described as a multi-ethnic country. The delegation should clarify what process was used to determine who had the right to participate in the referendum on self-determination for citizens of Southern Sudan.

34. **Ms. Hohoueto** asked whether non-Muslims living in the northern part of the Sudan were subject to sharia law and what was done to guarantee the independence of, inter alia, the Constitutional Court and the National Human Rights Commission, whose members were appointed by the President. Noting with surprise that there had been no official complaints of racial discrimination in the State party, she asked whether victims had difficulty in accessing courts and tribunals. With regard to women's rights, she observed that, although the Constitution provided for gender equality, the State party had not yet ratified the Convention on the Elimination of All Forms of Discrimination against Women, and that the Criminal Code contained discriminatory provisions relating to rape and adultery.

35. **Mr. Vázquez** said that the delegation should clarify the affirmation in the report that the country's ethnic mix was the result of the intermarriage of different ethnic groups, and that distinctions were applicable to tribes and not racial ethnicities. Did that imply that intertribal conflicts in the Sudan were not a matter of race or ethnicity?

36. He would welcome details on the nature of the investigation that had prompted the Government to conclude that cases of abduction and forced labour in the Sudan had ceased, a finding that was inconsistent with information submitted to the Committee by other sources. The State party affirmed in the report that its findings had been confirmed by a working group headed by the chairperson of the Advisory Council on Human Rights, a body that was apparently not independent of the Government.

37. The delegation should provide information on the enjoyment of indigenous land rights and respond to reports that the Merowe and Kajbar dam projects, among others, had undermined the historical heritage of the Nuba people.

38. While commending the importance attached to freedom of opinion and expression in the report, he noted that sedition was among the acts punishable under article 64 of the Criminal Code. Sedition was not covered by article 4 of the Convention. Its establishment as an offence raised concerns about the misuse of laws prohibiting incitement in order to punish national minorities and members of the political opposition. In that connection, he

drew the delegation's attention to paragraph 20 of the Committee's general recommendation No. 35.

39. According to the State party report, there were over 4,000 civil society organizations in the Sudan. It was therefore particularly disappointing that the Committee had not received more submissions and that no representatives of civil society were in attendance during the interactive dialogue with the State party. He invited the delegation to comment on the matter and to respond to reports that human rights defenders and political opponents continued to be persecuted, against a backdrop of ongoing impunity.

40. **Mr. Huang Yong'an** asked what steps were being taken to address significant regional variations in educational attainment, which were reportedly caused in part by the fact that resources were concentrated in the northern parts of the country. He urged the State party to devote more attention to education, particularly that of indigenous groups and populations living in remote areas.

41. **Mr. Lindgren Alves** sought clarification on the distinction drawn by the State party between a tribe and an ethnic group, and asked whether there were non-Muslim judges in the Sudan.

The meeting rose at 5.55 p.m.