



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

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## Committee on the Elimination of Racial Discrimination Eighty-sixth session

### Summary record of the 2336th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 5 May 2015, at 10 a.m.

*Chairperson:* Mr. Avtonomov (Vice-Chairperson)

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article 9 of the Convention (*continued*)

*Combined twelfth to sixteenth periodic reports of the Sudan (continued)*

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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** *(continued)*

*Combined twelfth to sixteenth periodic reports of the Sudan (continued)*  
(CERD/C/SDN/12-16; 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 the Government's achievements in its efforts to resolve conflicts in the Sudan included the conclusion of the N'Djamena Humanitarian Ceasefire Agreement for Darfur and the Doha Framework Agreement for the Resolution of the Conflict in Darfur. However, implementation of the Cooperation Agreement between the Republic of the Sudan and the Republic of South Sudan had been hindered by events in South Sudan, particularly the civil war, and the Government was endeavouring to resolve those problems so that the links between the two countries could be re-established. The Government had attempted to prosecute the members of the African Union-United Nations Hybrid Operation in Darfur (UNAMID) who had carried out attacks, but UNAMID had ignored repeated requests to participate in inquiries and proceedings, despite the fact that it was required to cooperate with the Government in proceedings against its members.
3. No distinction was drawn between the ethnic Sudanese and non-Sudanese populations; no ethnic group belonged to the Sudan to a greater or lesser extent than another, and none could be considered indigenous. Furthermore, no ethnic groups could be deemed "pure", as intermarriage between groups was common. The tribal system was no longer linked to ethnicity, and membership of a particular tribe often depended on linguistic, religious or geographic factors. Reports that the conflict in Darfur was between nomadic Arab tribes and African farmers were false. Not all Arabs were nomadic and not all Africans were farmers. The problems in Darfur related to the use of water and pastureland rather than to tribal matters.
4. Human rights organizations that failed to comply with the law had been shut down, including the Salmah Women's Resource Centre, which had operated as a business rather than as a non-governmental organization (NGO). Legal proceedings had been launched against some of those organizations. Nevertheless, registered NGOs, of which there were more than 4,000, were free to carry out their work. Civil society organizations had participated in the drafting of the State party report and had been invited to submit their own reports to the Committee. Apparently, none had done so.
5. The Government was taking the necessary steps to adopt the new, permanent Constitution, taking into consideration the recommendations made by the National Assembly and NGOs. The new Constitution would be adopted following broad consultation with all stakeholders, including political parties. The bill on racial discrimination incorporated the definitions contained in the Convention and made provision for sanctions as a repressive measure.
6. Given the country's federal structure, difficulties had been encountered in compiling data, as there had been a lack of direct reporting to the central Government. However, the Central Bureau of Statistics had compiled some data of better quality, and the next report would hopefully include its analysis. The State provided education, health and other services to nomadic groups, who often travelled in very specific areas, relatively close to their places of origin. Schools for nomadic children moved with those communities.
7. The independence of the National Human Rights Commission was guaranteed by law, and its members were appointed by the President on the basis of recommendations

from the Council of States. The Commission was currently fully staffed. It had launched several seminars and training programmes and was responsible for strategic planning in the field of human rights. It would soon request recognition from the Supreme Court in order to comply with the Paris Principles.

8. The President had the power to expropriate land, provided the expropriation was carried out on a non-discriminatory basis, in the national interest and with the payment of compensation. With regard to the construction of dams, there had been violent protests resulting in injuries and deaths even during the preparatory work to inspect archaeological ruins listed as World Heritage Sites by the United Nations Educational, Scientific and Cultural Organization (UNESCO). The aim of the dam projects was to ensure that the whole population would benefit from the production of electricity while avoiding violations of rights and damage to archaeological sites.

9. Although problems regarding access to justice did exist, access to the justice system was free of charge, and courts, public prosecutors' offices and police forces were functioning in all parts of the country. Citizens could lodge complaints and grievances against any public body through the website of the National Human Rights Commission.

10. There were significant numbers of refugees from several countries in the Sudan, including more than 300,000 from South Sudan, who did not live in camps, but in specially constructed villages where they could cultivate land and live autonomously. Refugees from South Sudan were registered with the Office of the United Nations High Commissioner for Refugees (UNHCR); they did not require work permits to engage in employment and could establish businesses and farms. Ethiopians and Eritreans were no longer entitled to asylum or refugee status, although some Eritreans were still housed in camps. A large percentage of the population was multilingual. While Arabic was the country's common language according to the Constitution, local dialects were promoted, in particular through the Ministry of Social Affairs.

11. The maximum penalty for human trafficking had been increased from 5 years' imprisonment to death.

12. Men and women enjoyed complete equality under the Constitution and before the law. Male guardians signed marriage contracts on behalf of the brides, but a marriage could not be lawfully concluded without the woman's consent. The Islamic legal provision whereby a woman's testimony carried only half the weight of a man's was misunderstood and misapplied by many Muslims, being valid only for issues relating to debt. In all other matters a woman's testimony was equivalent to a man's. Women inherited only half as much as their brothers, but it was not true that women always inherited half as much as men; in other cases, they sometimes inherited more. Stoning was a punishment under sharia law and was equally applicable to men and to women.

13. Law enforcement officials enjoyed procedural immunity, but if it was shown that they had committed an offence, the Minister of Justice could lift their immunity and they could be prosecuted. Many law enforcement officials had thus been convicted. Citizens could challenge the constitutionality of laws by appealing either directly to the Constitutional Court, an independent body which had recently been established, or via the justice system, to the Supreme Court. Matters regarding the emoluments and immunity of judges were regulated by a special judicial commission and were not subject to influence from the country's President or the head of the judiciary.

14. The Advisory Council for Human Rights was an executive body which coordinated government policies and approaches on human rights issues and assisted in the drafting of reports, while the role of the National Human Rights Commission was to provide oversight. Both the Council and the Commission had webpages where citizens could lodge complaints concerning human rights violations, but there was no systemic link between the two bodies.

The Office of the Ombudsman too addressed grievances and also ensured the payment of compensation. Definitive judgments could not be appealed, but the President had the power to authorize the payment of compensation outside the judicial sphere.

15. The National Human Rights Commission had adopted a national strategy for 2014–2018 which covered all the provisions of the Convention, while the Advisory Council for Human Rights had adopted a 10-year strategy for 2013–2023. The Sudan had ratified a number of labour conventions of the International Labour Organization (ILO) and the Arab Labour Organization. The definition of “indigenous” under the ILO Indigenous and Tribal Peoples Convention (No. 169) was not applicable in the Sudan.

16. The provisions of article 27, paragraph 3, of the interim Constitution, under which all ratified human rights treaties were part of national law, would remain in the final version of the Constitution. Self-executing agreements were applied directly, while non-self-executing agreements, including the Convention, could not be directly enforced and required amendments to national legislation, some of which were currently before the parliament. Customary international law could be applied directly in the Sudan.

17. Consultations were currently taking place on the ratification of the Convention on the Elimination of All Forms of Discrimination against Women. While it had not yet ratified that Convention, the Sudan was not necessarily contravening it. The country had a long history of gender equality and had been commended by the United Nations for encouraging the participation of women in public life. Women enjoyed equal pay with men, they were present in the executive and the judiciary and accounted for 55 per cent of people working in education. Under recent legislation the proportion of seats in the parliament allocated to women had been increased to 30 per cent.

18. As for the cases taken up by the Office of the Special Prosecutor for Crimes in Darfur, judgement had been passed in 43 cases, 12 were still before the courts and more than 1,000 others were still being investigated.

19. Official identity documents made no mention of the holder’s tribal origins, and elections and referendums were not held on the basis of ethnicity. The issue in the case of South Sudan had been that of establishing whether people were entitled to participate in the referendum.

20. The Government was making efforts to help resettle internally displaced persons. More than 290 model villages had been established with the assistance of the Arab League and various Arab States. The Sudanese Government itself was in the process of building 267 villages. However, the security situation in refugee camps was very difficult, and people could only be transferred to the villages with their consent. The resettlement plans would only be successful if the Government received support from the international community.

21. Six separate investigations had been carried out into the alleged rape of 200 women in the village of Thabet, but none of the allegations had been confirmed. Thabet was not a single village but a group of villages, established with the support of the Government of Qatar, where displaced persons were provided with jobs, hospitals and schools. It was protected by a military post manned by 160 soldiers, of whom 40 were local men and 10 had married local women. It was therefore impossible that they would have carried out such acts against their own people. The allegations were based on false rumours spread by opposition forces to hinder the voluntary repatriation of displaced persons.

22. Members of the Dinka and Nuer communities were now citizens of South Sudan, so any questions regarding them should be addressed to the Government of that country.

23. The Sudan was a poor country and was thus unable to give material aid to refugees, although it did try to provide them with a livelihood by offering them the possibility of

working in agriculture. Assisting refugees was the responsibility of the international community.

24. The conflict in Darfur had its roots in disputes over limited resources between nomads — both Arab and non-Arab — and sedentary peoples. A rebel group supported and financed by foreign States was active in the Nuba mountains. The conflict was not racial or ethnic in any way. Indeed, there was no discrimination in the Sudan on the basis of skin colour. Large numbers of people from Darfur and the Nuba mountains lived all over the Sudan, including in Khartoum, where they constituted one third of the population, and none complained of racial discrimination. Projects in the area of the Nuba mountains had been suspended due to continued attacks by rebel groups, but no land had been confiscated. A military unit of the South Sudanese army was present in the area of the Blue Nile.

25. UNHCR had decided to suspend assistance to Ethiopian refugees, but there were still more than 1 million Ethiopians in the Sudan. The country had extensive borders with neighbouring States. Although it controlled the official crossing points, it was unable to stop unlawful entry and exit elsewhere along its frontiers.

26. Widows were entitled to receive their deceased husbands' pension benefits for the rest of their lives. Entitlement for sons of the deceased continued until they finished their education, while for daughters the entitlement ended when they married.

27. There were many displaced persons in the country, and the Government was making great efforts to facilitate their voluntary resettlement. In previous decades there had been many displaced persons living in camps on the outskirts of Khartoum. However, the Government had provided those persons with land and housing assistance, and all the camps had subsequently disappeared.

28. Sharia law did not apply to non-Muslims, who, though a small minority, were well protected and enjoyed full rights of citizenship. There was no discriminatory policy against non-Muslims, and any legal provisions that gave rise to misinterpretation in that regard would be amended accordingly.

29. The army of South Sudan was inciting and supporting violence in the Nuba mountains and in the Blue Nile area. A number of persons in those areas still held high-ranking positions in the South Sudanese army, even though they had Sudanese citizenship. The Government of the Sudan had urged the international community to pressure South Sudan to disassociate itself from them, but so far nothing had been done in that regard. In those areas, conflict was thus being perpetuated not by the local population, but by rebels who were supported by a foreign State.

30. The conflict in the Darfur region was tribal rather than ethnic in nature. It was a conflict over resources, waged between nomadic peoples and settled peoples. While war crimes had been committed, the divisions were not on ethnic lines and had nothing to do with race. Rather, certain groups who sought political power were willing to fight under any banner that would help them achieve that aim. The Government was attempting to combat impunity and bring the perpetrators of war crimes to justice, notably through the work of the Office of the Special Prosecutor for Crimes in Darfur. It should be noted, however, that the Office had not received any help from the international community.

31. The conflict in Darfur did not constitute genocide, as evidenced by the fact that there were more than 5 million persons native to Darfur who were living in other parts of the country. If genocide had taken place, those vulnerable persons living outside the region would have been targeted, which had not occurred. The United Nations Children's Fund (UNICEF) had discontinued its financial support for efforts to combat abduction in the country. According to UNICEF, while the problem persisted in South Sudan, it was no longer a problem in the Sudan, since the persons involved had all been transferred back to

their home areas in South Sudan. The President exercised his power to confiscate land in accordance with the law, which guaranteed compensation and full respect for the rights of the persons affected.

32. Education was free and compulsory for the first eight years. Many schools were being expanded, new schools were built every year and there were more than 40 universities in the country. While some persons living in isolated areas did not have access to education, the Government was working to address that shortcoming. No one was denied access to education on racially discriminatory grounds. While 98 per cent of the population was Muslim, Christians too held positions as judges and prosecutors. Non-Muslims were more strongly represented in the private sector, as they were attracted to the greater economic incentives that it offered.

33. **Mr. Vásquez** said that, under the Convention, ethnicity was determined not by a person's DNA or other scientific evidence, but rather by factors such as culture, language, traditions and self-identification. Similarly, the Convention defined racial discrimination in terms not only of intent, but also of effect. Thus, the fact that conflicts were being fought over resources did not negate the possibility that they might have a discriminatory effect on people of a certain race or ethnicity. He wished to know how the State party defined the term "indigenous group" and to what extent it had consulted with the people of the Nuba mountains before proceeding with development projects that would damage the lands they used.

34. There was apparently still much progress to be made before it could be said that all races and ethnicities lived together in peace and harmony in the Sudan. He asked the delegation to respond to recent NGO reports claiming that the Government had dropped cluster bombs on civilians in the Nuba mountains. Lastly, he asked what steps the Government was taking to reassure the population that it was committed to upholding freedom of expression.

35. **Ms. Dah** drew the delegation's attention to the Committee's general recommendation No. 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system, which stated that an absence or small number of complaints of racial discrimination should not be viewed as necessarily positive. The Committee would raise that issue in its concluding observations.

36. While she welcomed the State party's efforts to achieve gender parity, further work still remained to be done in that area. She requested further information about the laws governing marriage between Sudanese citizens and foreigners. Specifically, she wished to know whether a Sudanese woman married to a foreigner could pass on Sudanese citizenship to her children. Lastly, she asked how non-Muslims accused of an offence could prove that they were not Muslim so as to avoid being subjected to punishment under sharia law.

37. **Mr. Tungo** (Sudan) said that the question of ethnicity in the Sudan was complex. While there were 500 different tribes in the country, many of them had common lineages and thus shared the same ethnicity. For several hundred years, including during the colonial period, political administration had been carried out through tribal chiefs, who collected taxes, served as judges and were considered to be government employees. It was common for a single tribal chief to hold authority over three or four different tribes.

38. There were two distinct groups of Nuba people in the country – those in the Nuba mountains, and those in the north. The dam projects in question were to be carried out in the latter area, not in the Nuba mountains. While the two groups were of the same ethnicity, one was dominant, while the other was marginalized and at risk of discrimination. In accordance with the law, compensation would be paid for any confiscated lands. The dam projects would improve the lives of the people in the area.

39. The Government was committed to upholding freedom of expression, but persons who violated the law must be held responsible. There were more than 100 media publications in the country. As members of the media were expert at spreading information, their complaints were always widely heard. Media outlets that violated the law were shut down, but they did have the right to seek legal remedies through the courts. In fact, the Constitutional Court had recently ruled in favour of a newspaper whose offices had been closed. Although those organizations subjected to closure often claimed that they were defending human rights, human rights must not be defended by violating the law.

40. The Government recognized that the lack of complaints of racial discrimination received by the competent authorities was not necessarily positive or indicative of the absence of that phenomenon in the country. However, it should be borne in mind that the Sudan was a large, underdeveloped country and that many of its institutions were not yet fully computerized, which could hamper the transmission of information and, by extension, the receipt of complaints of discrimination. It was also possible that any complaints of racial discrimination that had been filed had been resolved through other channels.

41. Sudanese women were free to marry foreign nationals and could transmit their Sudanese citizenship directly to their children at birth, irrespective of the nationality of their spouses. Sharia law could not be applied to non-Muslims living in the Sudan. Given that Sudanese identity documents did not indicate the ethnicity or the religion of the bearer, when defendants first appeared in court, they were required to state their religion so that the relevant criminal provisions could be applied. Muslims and non-Muslims were dealt with separately under the Sudanese legal system.

42. **Mr. Musa** (Sudan) said that there were no indigenous groups as defined by international law in the Sudan. Sudanese law did not grant special protection or special rights to any group on account of its ethnicity, cultural distinctiveness or ancestral heritage. However, Sudanese society respected the differences inherent in the different tribes that made up the country's population. All Sudanese citizens were accorded equal rights under the Constitution. The Sudanese legal system did not discriminate against any tribe or ethnic group.

43. **Mr. Khalaf** (Country Rapporteur) said that the responses provided by the delegation seemed to downplay the numerous challenges referred to in the State party's report. The delegation should answer the Committee's questions in a transparent manner that reflected the reality of the situation in the State party. Noting that the State party did not accord a special status or special treatment to any tribe or ethnic group, he took it that the State party considered all of them to belong to a single "Sudanese" ethnic group.

44. **Mr. Diaconu** said that it was incorrect and ultimately racist to refer to pure ethnic groups. The Committee wished to know whether there were certain ethnic groups that, on account of their distinctiveness, were subjected to discrimination or differential treatment. Were the conflicts that had arisen in the country attributable to power struggles among different tribal groups? Had the ethnicity of those tribal groups been the main factor driving the violence? While inter-ethnic marriage could help to reduce the likelihood of discrimination on the grounds of ethnicity, it did not erase the differences between distinct ethnic groups. The fact that the State party did not recognize indigenous groups as such did not preclude their existence within the national territory or obviate the need to protect them. He asked whether there were any Pygmy groups present in the Sudan. The Government should look to its neighbouring countries for examples of how to deal with the question of indigenous groups.

45. **Ms. Hohoueto** noted that the State party's core document was 16 years old. The Committee wished to find out as much as possible about the current situation with respect to racial discrimination in the country. She requested additional information on the situation

of nomads and how they had access to schooling. Had the State party consulted the segments of the population directly affected by expropriation orders recently issued by the President?

46. **Mr. Yeung Sik Yuen** said that it was his understanding that both the Supreme Court and the Constitutional Court were competent to hear cases relating to the constitutionality of a given law. He asked whether that was indeed the case and, if not, how the jurisdictions of the two courts were demarcated. If the two courts reached conflicting decisions on the same case, how would the issue be resolved?

47. **Mr. Tungo** (Sudan) said that Government forces had carried out air strikes against anti-Government rebels in the South Kordofan region but that he was uncertain as to whether cluster bombs had been used. Such military offensives targeted anti-Government rebels, regardless of their ethnicity, and not the civilians living in the Nuba mountain region. The Committee should bear in mind that the portrayal of the events taking place in Darfur and in the Nuba mountain region by the media and certain groups was not always accurate. The conflict in those areas was not ethnically motivated, as demonstrated by the fact that different ethnic groups coexisted peacefully in other parts of the country.

48. While there were some differences between the numerous tribes that made up the Sudanese population, those differences were not significant enough to warrant special treatment or protection for any groups. There was no single tribe or group that had traditionally held power in the Sudan. Any persons with the required qualifications and experience could apply for and hold public office, irrespective of their background. The President had issued the expropriation order in question in accordance with the legislation currently in force. A number of committees had been set up to hold consultations with the population concerned prior to the order coming into effect and to grant compensation, as appropriate.

49. The Supreme Court had been the only court competent to hear cases relating to the constitutionality of a given law prior to the establishment of the Constitutional Court. The jurisdiction of the Constitutional Court was separate from that of the Supreme Court. Any individual could challenge the constitutionality of a law before the Constitutional Court.

50. **Mr. Gubara** (Sudan) said that, while only 30 per cent of the seats in the parliament were reserved for women, women could also compete for the remaining 70 per cent. On the other hand, their male counterparts were only able to run for election for the 70 per cent that were not reserved. The punishment of stoning had not been inflicted in the Sudan since it had regained its independence.

51. **Mr. Tungo** (Sudan) said that the same quotas for women's representation were also applied by local assemblies.

52. **Mr. Khalaf** said that the Committee hoped that the State party's next periodic report would contain detailed information on its efforts to give effect to the recommendations set forth in the Committee's concluding observations. The Committee urged the Government of the Sudan to take all necessary measures to combat racial discrimination within its national territory and to ensure the effective implementation of the Convention.

53. **Mr. Tungo** (Sudan) said that his delegation was grateful for what had been a fruitful dialogue with the Committee. The Sudan remained committed to achieving the full realization of the rights enshrined in the Convention and would report on the progress made. The Government recognized the need to introduce effective reporting mechanisms and legal provisions to prevent, combat and punish all forms of racial discrimination in the national territory and would attempt to accelerate progress in that area.

*The meeting rose at 1 p.m.*