



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

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Sixty-fifth session
2 - 20 August 2004

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

MADAGASCAR

1. The Committee considered the tenth to eighteenth periodic reports of Madagascar, due respectively from 1988 to 2004 and submitted as one document (CERD/C/476/Add.1), at its 1644th and 1645th meetings (CERD/C/SR.1644 and 1645), held on 2 and 3 August 2004, and adopted the following conclusions at its 1665th and 1666th meetings (CERD/C/SR.1665 and 1666), held on 17 August 2004.

A. Introduction

2. The Committee welcomes the report of Madagascar and the opportunity thus afforded to resume its dialogue with the State party in a constructive manner. The Committee also welcomes the fact that the Government was represented by a large delegation representing several ministries concerned with the implementation of the Convention, which was able to respond to a great number of questions.

3. The Committee welcomes the efforts made by the State party to comply with the Committee's guidelines for the preparation of reports, while noting that the report does not contain sufficient information concerning the practical application of the Convention.

4. The Committee appreciates the oral replies of the delegation and suggests that they be completed in the next periodic report.

B. Positive aspects

5. The Committee welcomes the establishment of a committee responsible for drafting the initial and periodic reports under the human rights instruments ratified by the State party.

6. The Committee takes note of the assurance given by the delegation that, in accordance with a recent ruling of the Supreme Court, international conventions are an integral part of the domestic legal system.
7. The Committee notes with interest the establishment of such national human rights machinery as the Office of the Ombudsman, the National Human Rights Commission and the High Council to Combat Corruption.
8. The Committee welcomes the elimination of the waiting period imposed on naturalized aliens wishing to purchase real estate.
9. The Committee notes that positive steps are planned in connection with the recruitment and training of civil servants in a participatory policy aimed at the advancement of persons from the provinces.
10. The Committee notes with interest that, according to the State party, the traditional method of dispute settlement known as *Fihavanana* plays a role in preventing conflicts.

C. Concerns and recommendations

11. The Committee notes that the State party's report contains some information on the ethnic groups that make up the population of Madagascar, without specifying their number or economic, social and cultural status. However, it takes note of the delegation's statement that collecting such statistics might fuel tension between the communities.

The Committee draws the State party's attention to paragraph 8 of its guidelines for the preparation of reports. It recommends that the State party carry out targeted surveys, on the basis of voluntary self-identification, which will make it possible to determine the situation of the groups falling within the definition of article 1 of the Convention, and communicate the findings to the Committee in its next report.

12. The Committee notes that there is no definition of racial discrimination in the legal domestic order. It also notes that several laws contain provisions concerning non-discrimination which do not expressly specify race, colour and descent as prohibited grounds.

The Committee recommends that the State party should include a definition of racial discrimination in its legislation, drawing upon the elements contained in article 1 of the Convention. The State party should complete its legislation in order to prohibit racial discrimination in the same way as other forms of discrimination.

13. The Committee notes that incitement to tribal and racial hatred occurs sporadically and that acts of racial violence have been committed against members of the Indian/Pakistani community.

The Committee recommends that additional measures be taken to prevent such acts, and that the perpetrators should be brought to justice in accordance with relevant domestic legislation, promulgated pursuant to article 4 of the

Convention. Information on the number of prosecutions brought in the criminal courts and the verdicts handed down in such cases should be provided in the next periodic report.

14. The Committee recommends that the State party provide in its next report more detailed information on how *Fihavanana* works.

15. The Committee notes that the rules on nationality discriminate against children born to a mother of Malagasy nationality and a father of foreign nationality.

The Committee recommends to the State party that it revise its nationality law and guarantee such children Malagasy nationality on the same footing as children born to a father of Malagasy nationality and a mother of foreign nationality.

16. The Committee notes with concern that some regions of the country are harder hit than others by the low level of economic development, with lower literacy rates and life expectancy in particular, even if the lack of technical and financial resources objectively contributes to these disparities.

The Committee points out that the principle of non-discrimination is not subject to the availability of resources, and calls on the State party to ensure that existing resources are distributed fairly among the various regions of the country. As indirect discrimination is forbidden under the Convention, the Committee draws the attention of the State party to the ethnic dimension that these inequalities could have, and invites it to adopt special measures that could be necessary under article 2, paragraph 2, of the Convention.

17. The Committee regrets that despite the abolition of slavery and the caste system in 1896, discrimination against the descendants of slaves persists.

The Committee recommends that the State party take the necessary steps to put an end to discrimination based on descent, including the steps enumerated in its general recommendation XXIX. Detailed information on the situation of descendants of slaves, and of the persistence of the caste system in general, should be included in the next periodic report.

18. The Committee notes that neither the National Human Rights Commission nor the Office of the Ombudsman has the power to hear and consider individual complaints.

The Committee recommends that the State party strengthen the powers of these two institutions, by conferring on them the power to hear and consider complaints and to make recommendations prior to the intervention of judicial authorities. The Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134) should be applied where the National Human Rights Commission is concerned.

19. The Committee recalls that the fact that victims of racial discrimination do not bring cases before the courts may be the result of, inter alia, the limited resources available to them, their lack of awareness of their rights, or the authorities' lack of attention or sensitivity to cases of racial discrimination.

The State party should take steps to inform the population about their rights as regards efforts to combat racial discrimination and should make it easier for victims to gain access to justice, in particular through the effective application of a system of legal aid. It should also strengthen training for law enforcement personnel, the legal profession and customary chiefs in this regard.

20. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and include in its next periodic report information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

21. The Committee strongly recommends that the State party ratify the amendment to article 8, paragraph 6, of the Convention adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal was renewed by the Assembly in resolution 58/160.

22. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and recommends that it consider so doing.

23. The Committee recommends that the State party make its periodic reports available to the public and publicize the Committee's conclusions in the same way.

24. The Committee recommends that the State party submit its nineteenth and twentieth periodic reports as one document due on 9 March 2008, and respond therein to all the points raised in the present concluding observations.
