



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

Distr.
GENERAL

CERD/C/TZA/CO/16*
27 March 2007

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Sixty-seventh session
2 -19 August 2005

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

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

UNITED REPUBLIC OF TANZANIA

1. The Committee considered the eighth to sixteenth periodic reports of the United Republic of Tanzania, submitted in one document (CERD/C/452/Add.7), at its 1713th and 1714th meetings (CERD/C/SR.1713 and 1714), held on 9 and 10 August 2005. At its 1725th meeting (CERD/C/SR.1725), held on 17 August 2005, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the report submitted by the State party as well as the additional oral information provided by the delegation. However, the Committee regrets that the report does not contain sufficient information on the measures taken to give effect to the provisions of the Convention.

3. The Committee appreciates the presence of a high-ranking delegation and the constructive and frank dialogue with the State party's delegation and expresses its appreciation for the opportunity to resume its dialogue with the State party.

4. Noting that the periodic report was presented after a 17-year delay, the Committee invites the State party to respect the deadline set for the submission of its next reports.

* Re-issued for technical reasons.

B. Positive aspects

5. The Committee acknowledges with appreciation that, despite a decline in the number of refugees, Tanzania continues to host more than 600,000 refugees, the largest number in Africa.
6. The Committee notes that Tanzania is a multi-ethnic State, with more than 120 ethnic and minority groups, and acknowledges its efforts to build a State where all groups live in harmony.
7. The Committee welcomes the establishment of the Commission for Human Rights and Good Governance with, inter alia, competence to conduct inquiries into complaints of human rights violations and to disseminate information on human rights.
8. The Committee acknowledges the role of ward tribunals in administering justice at the grass-roots level, speeding up the delivery of justice and enhancing its access to the population.

C. Concerns and recommendations

9. While acknowledging the reasons presented by the State party for not gathering disaggregated data on the ethnic groups that make up its population, the Committee understands that, as a result of the lack of statistical information on the composition of its population, an adequate picture of the full complexity of the Tanzanian society cannot be obtained (art. 1).

The Committee recommends that the State party endeavour to include in its next periodic report at least an approximate evaluation of the ethnic and linguistic composition of its population as well as of the number of non-citizens and, in this connection, draws the attention of the State party to paragraph 8 of its reporting guidelines, as well as to its general recommendation XXIV (1999).

10. While noting that article 13 of the Constitution prohibits racial discrimination and that article 9 of the Constitution ensures that State organs must ensure equality, the Committee is concerned about the absence of specific legislation on racial discrimination in the State party (arts. 1 and 2).

The Committee recommends that the State party adopt specific legislation on racial discrimination implementing the provisions of the Convention, including a legal definition of racial discrimination in line with article 1 of the Convention.

11. Bearing in mind that the State party has a dualist legal system, the Committee remains concerned about the fact that the Convention has not been incorporated in

domestic law and that the position as to its direct applicability in the State party is unclear (art. 2).

The Committee strongly recommends that the State party envisage incorporating the Convention into its domestic legal order.

12. While noting the provisions of section 63 (b) (1) of the Penal Code, the Committee is concerned about the insufficiency of specific penal provisions implementing article 4 of the Convention in the domestic legislation of the State party (art. 4).

The Committee recommends that the State party adopt legislation, in the light of its general recommendation XXV (1993), to ensure the full and adequate implementation of article 4 of the Convention in its domestic legal system.

13. While welcoming the fact that female genital mutilation has been a criminal offence in the State party since 1998, the Committee is concerned that it is still a persistent practice in some ethnic communities (art. 5).

The Committee recommends that the State party include detailed information in its next periodic report on the practice of female genital mutilation. The Committee further recommends that the State party reinforce the measures adopted to eradicate this persistent practice, in particular through sensitization programmes directed at promoting changes in attitudes towards this practice, in consultation with traditional communities.

14. The Committee notes with concern the lack of information from the State party regarding the expropriation of the ancestral territories of certain ethnic groups, and their forced displacement and resettlement (art. 5).

The Committee recommends that the State party provide detailed information on the expropriation of the land of certain ethnic groups, on compensation granted and on their situation following their displacement.

15. The Committee regrets the lack of information on the numbers of non-citizens in the State party and on their situation as far as the enjoyment of their rights is concerned (art. 5).

The Committee recommends that the State party include detailed information in its next periodic report on non-citizens and their situation, especially on immigrants and asylum-seekers, as well as on long-term foreign residents and the possibility of their acquiring citizenship, according to general recommendation XXX (2004).

16. The Committee also notes with concern the lack of information on certain vulnerable ethnic groups, notably nomadic and semi-nomadic populations, inter alia the Barbaig, Maasai and Hadzabe, on the difficulties they allegedly face due to their specific

way of life and on special measures taken to guarantee the enjoyment of their human rights (arts. 5 and 2).

The Committee recommends that the State party provide detailed information on the situation of nomadic and semi-nomadic ethnic groups and on any special measures taken with a view to ensuring the enjoyment of their rights under the Convention, notably their freedom of movement and their right to participate in decisions which affect them.

17. The Committee is concerned that, according to information brought to its attention by reliable sources, some refugees have been forcibly returned to countries where there are substantial grounds for believing that they may suffer serious human rights violations (art. 5).

The Committee recommends that the State party provide information on the situation of refugees, the legal basis for their deportation, and on the legal protection provided to them including their right to legal assistance and judicial appeal against deportation orders. The Committee also urges the State party to ensure, in accordance with article 5 (b) of the Convention, that no refugees are forcibly returned to a country where there are substantial grounds for believing that they may suffer serious human rights violations.

18. The Committee is concerned about allegations of arbitrary arrests and detention, excessive use of force and ill-treatment of refugees, in particular women, by law enforcement officials, and about the lack of investigation of those cases (arts. 5 and 6).

The Committee recommends that the State party take appropriate measures to eradicate all forms of ill-treatment by law enforcement officials of refugees, in particular women, and ensure prompt, thorough, independent and impartial investigations into all allegations of ill-treatment of refugees. The Committee further recommends that the persons responsible for the ill-treatment be prosecuted and punished, and victims granted compensation.

19. While noting that a reform of the legal sector has been undertaken and that the issue of access to justice is being considered, the Committee remains concerned about the difficulties of access to justice, especially for the poor and members of minority groups (arts. 5 and 6).

The Committee recommends that the State party take the necessary measures to establish mechanisms to improve the capacity and efficiency of the judicial system, so as to ensure access to justice to all without discrimination, and to establish mechanisms to provide legal aid to all members of vulnerable groups.

20. Religious questions are of relevance to the Committee when they are linked with ethnicity and racial discrimination. In this connection, the Committee is concerned about the lack of information on the ethno-religious composition of the State party's population and about allegations of tensions between ethno-religious groups (arts. 5 and 7).

The Committee recommends that the State party include detailed information in its next periodic report on the situation of ethno-religious communities and the measures taken to promote tolerance between them.

21. The Committee regrets the insufficiency of detailed information regarding the independence, competencies and effectiveness of the Commission for Human Rights and Good Governance. The Committee notes that, since the establishment of the Ombudsman in 1966, no complaints about racial discrimination have been brought to this institution (art. 6).

The Committee recommends that in its next periodic report, the State party provide detailed information on the independence, competencies and effective results of the activities of the Commission for Human Rights and Good Governance and encourages the State party to strengthen this institution in line with 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) and provide it with adequate resources. The Committee further recommends that the State party widely disseminate information on the existence of this institution, especially on its capacity to investigate violations of human rights.

22. The Committee notes the lack of information on complaints of racial discrimination and the absence of court cases regarding racial discrimination (arts. 6 and 7).

The Committee recalls that the absence of cases may be due to the victims' lack of information about the existing remedies, and therefore recommends that the State party ensure that appropriate provisions are available in national legislation regarding effective protection and remedies against violation of the Convention and that the public at large is appropriately informed about their rights and the legal remedies available against their violation. The Committee further recommends that the State party provide information on future complaints and cases in its next periodic report.

23. 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. It further recommends that it include in its next periodic report information on measures taken to implement the Durban Declaration and Programme of Action at the national level.

24. The Committee requests that the State party's report and the present concluding observations be widely disseminated throughout the State party, and that the next periodic report be brought to the attention of non-governmental organizations operating in the country before being submitted to the Committee.

25. The Committee strongly recommends that the State party ratify the amendments 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, concerning the funding of its meetings by the

United Nations regular budget. In this connection, the Committee refers to General Assembly resolution 59/176 of 20 December 2004, 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.

26. Pursuant to article 9, paragraph 1, of the Convention, and article 65 of the Committee's rules of procedure, as amended, the Committee requests the State party to inform it of its implementation of the recommendations contained in paragraphs 13, 17 and 18 above, within one year of the adoption of the present conclusions.

27. The Committee recommends that the State party submit its seventeenth periodic report jointly with its eighteenth periodic report on 26 November 2007, and that it address all points raised in the present concluding observations.
