



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

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Seventy-third session
28 July-15 August 2008

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

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

TOGO

1. The Committee considered the combined sixth to seventeenth periodic reports of Togo (CERD/C/TGO/17) at its 1880th and 1881st meetings (CERD/C/SR.1880 and 1881), held on 30 and 31 July 2008. At its 1897th meeting (CERD/C/SR.1897), held on 13 August 2008, the Committee adopted the concluding observations as set out below.

A. Introduction

2. The Committee welcomes the report submitted by the State party and commends the candid way in which it acknowledged certain situations that have greatly affected Togo. The Committee regrets, however, that non-governmental human rights organizations did not participate in drafting the report.

3. The Committee welcomes the opportunity to resume dialogue with the State party after a long interruption and invites it to submit its future reports in a regular manner. It commends the presence of a large and high-level delegation and expresses its satisfaction for the additional information provided orally and in writing.

4. The Committee notes with satisfaction the presence of the National Human Rights Commission of Togo and the information provided by its Chairperson.

B. Positive aspects

5. The Committee welcomes the process of reconciliation initiated by Togo, which resulted in the signing of the Global Political Accord on 20 August 2006, and the peaceful conduct of the legislative elections in October 2007. It also welcomes the determination of the State party to establish the rule of law and its commitment to meet its international human rights obligations.
6. The Committee notes with satisfaction the State party's stated intention to establish a truth, justice and reconciliation commission in the near future.
7. The Committee welcomes the national programme for the promotion and protection of human rights adopted on 31 May 2007, which emphasizes public awareness about international human rights instruments.
8. The Committee notes with satisfaction that the State party has begun to implement a national programme to modernize the justice system as well as legislative reform of the Criminal Code.
9. The Committee welcomes the elimination of discriminatory provisions from the Electoral Code.

C. Concerns and recommendations

10. While the Committee notes the difficulties expressed by the delegation, it would like to have updated information on the ethnic and linguistic composition of the population of Togo. It recalls that information on the demographic composition makes it possible for both the Committee and the State party to better evaluate the application of the Convention at the national level.

The Committee encourages the State party to conduct a census and to provide the census data in its next report. It recommends that the questionnaire used for this purpose should include questions that help to better identify the ethnic and linguistic composition of the population. It draws the State party's attention to the general guidelines regarding the form and contents of reports to be submitted by States parties to the Committee, adopted at its seventy-first session (CERD/C/70/Rev.5).

11. The Committee notes with concern that, although the State party acknowledges that inter-ethnic conflicts have occurred in Togo, there is currently no definition of racial discrimination that reflects the definition given in article 1 of the Convention.

The Committee encourages the State party to persist in its efforts to carry out reform of its legislation, particularly of the Criminal Code, in the very near future, making provision for the inclusion of a definition of racial discrimination that is fully consistent with article 1 of the Convention. (art. 1)

12. The Committee notes with concern that the requirements of article 4 of the Convention are not fully reflected in domestic law, including the requirement to declare illegal the provision of assistance to and financing of racist activities and to prohibit organizations that disseminate racist propaganda.

The Committee recommends that the State party establish provisions making each of the criminal acts referred to in the relevant paragraphs of article 4 of the Convention a criminal offence, including assistance to and financing of racist activities, and prohibiting organizations that disseminate racist propaganda. (art. 4 (a))

13. While the Committee takes into account the State party's commitment to national reconciliation, it notes with concern that no criminal penalty has been imposed on the political leaders and authors of journalistic articles who have incited ethnic hatred and tribalism, even though, as the State party acknowledges, the gravity of their conduct resulted in massacres, manhunts and population displacements, particularly following the 2005 presidential elections. The Committee recalls that grave human rights violations must not go unpunished.

The Committee recommends that the State party take the necessary measures to combat effectively any tendency, particularly on the part of political officials and the media, to stigmatize or stereotype persons on the basis of race, colour, descent and national or ethnic origin. The State party should also ensure that no grave violation of human rights goes unpunished. (art. 4 (b) and (c))

14. The Committee regrets that it did not have enough information on the activities of the Office of the High Commissioner for Reconciliation and Strengthening National Unity established on 11 March 2008 or on the policies conducted by Togo to bring national unity to the country.

The Committee reminds the State party that the objective of building a nation based on the principle of equality for all should be achieved by taking into account the protection of the ethnic and cultural diversity of all ethnic groups and observing the rights recognized and protected by the Convention. It recommends that the Government's activities, including the activities of the Office of the High Commissioner for Reconciliation and Strengthening National Unity, take into account the principle of non-discrimination established under the Convention. (art. 5)

15. The Committee is concerned by the tensions between various ethnic groups in Togo that could persist and hinder the reconciliation process.

The Committee invites the State party to step up its efforts to promote harmonious relations between the various ethnic and cultural groups in Togo, including through campaigns to increase awareness about tolerance and inter-ethnic understanding. It also invites it to take measures to promote the cultural identity of these groups and preserve their languages. (art. 7)

16. The Committee notes with concern the persistence of significant disparities based on gender and geographic, ethnic and social origin in Togo, including in the educational system and access to health services.

The Committee encourages the State party to make every effort to reduce existing disparities, including in the educational system and access to health services, through appropriate strategies and measures. (art. 2, para. 2 and art. 5 (e) (iv) and (v))

17. The Committee notes with concern that the legal instrument governing property matters, the decree of 24 July 1906, is not adequate to guarantee the right of indigenous peoples to own, develop, control and use their lands, resources and communal territories.

The Committee recommends that the State party take effective and adequate measures to protect the right of indigenous peoples to land and (a) provide effective protection of the forest rights of indigenous peoples within the framework of the National Commission for the Modernization of Legislation; (b) draw up a registry of the ancestral land of indigenous peoples; (c) take into account the interests of indigenous peoples and the imperatives of safeguarding the environment with respect to land use; and (d) provide domestic remedies in cases of violation of the rights of indigenous peoples. The Committee also invites the State party to take account of its general recommendation No. 23 (1997) on the rights of indigenous peoples. (art. 5 (e))

18. While taking into account the efforts made by the State party to restore ethnically balanced representation in the recruitment of public administration personnel and within the law enforcement and security forces, the Committee notes with concern that there remains an ethnic imbalance in the civil service and that the Kabyè-Tem-Losso group is predominant in the army. However, some ethnic groups such as the Peulh are underrepresented in the Government, Assembly, magistracy and public institutions.

The Committee encourages the State party to continue its efforts to implement the recommendations of the 2005 fact-finding mission by taking urgent and adequate measures to radically transform recruitment in the army and civil service so that they reflect the cultural and ethnic diversity of Togolese society and that no ethnic group suffers discrimination. (art. 5 (e) (i))

19. The Committee regrets not having received sufficient clarification of the status of the Convention in Togolese domestic law, including the scope of articles 50 to 140 of the Constitution.

The Committee recommends that the State party provide it with more information on the status of the Convention in domestic law and on individuals' right to invoke the relevant provisions of the Convention before the courts. (art. 6)

20. The Committee notes with concern that according to the State party racial discrimination is practically non-existent in Togo and that no complaint has been registered to date.

The Committee requests the State party to include in its next periodic report statistics on the legal proceedings instituted and sentences handed down for offences related to racial discrimination. It reminds it that the absence of complaints and court cases on the part of victims of racial discrimination may reflect the non-existence of specific relevant legislation, ignorance of available remedies, fear of social disapproval or the unwillingness of the responsible authorities to institute legal proceedings. It requests the State party to ensure that its national legislation contains the appropriate provisions and inform the public of all the available legal remedies in the area of racial discrimination. (art. 6)

21. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12, chap. I), when it incorporates the Convention into its domestic legal order, particularly with regard to articles 2 to 7. The Committee also urges the State party to include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

22. The Committee takes note of the State party's consideration of the optional declaration under article 14 of the Convention and encourages it to complete its consideration without delay.

23. The Committee 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 of 16 December 1992. In this connection, the Committee cites General Assembly resolution 61/148, in which it 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.

24. The Committee recommends that the State party's reports be made readily available to the public at the time of their submission, and that the Committee's comments on those reports be similarly publicized in the official and national languages and, if possible, the main minority languages.

25. The Committee recommends that the State party consult widely with civil society organizations working to combat racial discrimination when it drafts its next periodic report.

26. The Committee invites the State party to update its core document in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the human rights treaty bodies at their fifth inter-committee meeting, held in June 2006 (see HRI/GEN/2/Rev.4).

27. In accordance with article 9, paragraph 1, of the Convention and article 65 of its amended rules of procedure, the Committee requests the State party to provide information, no later than 15 August 2009, on its follow-up to the recommendations contained in paragraphs 13, 17 and 18 above within one year of the adoption of the present concluding observations.

28. The Committee recommends that the State party submit its eighteenth and nineteenth periodic reports, in a single document, by 5 July 2011, taking into account the specific reporting guidelines for the Committee on the Elimination of Racial Discrimination, as adopted by the Committee at its seventy-first session, and addressing all points raised in the present concluding observations.
