



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

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1268th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 17 March 1998, at 3 p.m.

Chairman: Mr. ABOUL-NASR

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Draft concluding observations concerning the fourteenth periodic report of the Russian Federation (CERD/C/52/Misc.27,* future CERD/C/304/Add.43) (continued)

1. The CHAIRMAN recalling the point raised at the previous meeting by the Country Rapporteur for the Russian Federation, invited members to resume discussion of the changes in the format of concluding observations proposed at the ninth meeting of persons chairing the human rights treaty bodies.

2. Mr. RECHETOV said that the Committee had developed an appropriate format for its concluding observations. If it did not always make a clear distinction between the different sections, that was due to insufficient consideration of the reports themselves. In any event, changes in the format for concluding observations should be based on the Committee's own deep convictions rather than the approaches taken by other committees. The Committee should not be accountable to governments or other treaty bodies. He would accept whatever the Committee decided, but stressed that it should avoid changing the format in the middle of a session.

3. Mrs. ZOU Deci agreed that no drastic changes should be made without careful consideration. The present format, however, left room for improvement. She did not object to combining the "Principal subjects of concern" and "Suggestions and recommendations" sections. The other sections could be retained or deleted according to the situation of each country.

4. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that he could accept either version of the concluding observations concerning the report of the Russian Federation; both had advantages and drawbacks. For that reason he was prepared to accept the suggestion that no decision should be taken at present.

5. The CHAIRMAN said that the members appeared to agree with Mr. Sherifis' suggestion to retain the current format for the Committee's next report to the General Assembly. Discussion would continue at the following session and a decision taken for application as from the March 1999 session. In the interim, the decision to combine sections (d) and (e) would be left to each country rapporteur.

6. It was so decided.

* Document distributed at the meeting in English only, comprising draft A and draft B.

7. The CHAIRMAN invited the members of the Committee to proceed with its consideration of the draft concluding observations concerning the fourteenth periodic report of the Russian Federation (CERD/C/Misc.27 (draft A)), draft A being the version based on the Committee's usual practice and incorporating corrections submitted by some members.

Paragraphs 1-14

8. Paragraphs 1-14 were adopted with two minor drafting changes.

Paragraph 15

9. Mr. DIACONU proposed the deletion of the paragraph, since it was not for the Committee to express doubts about the State Party's political will to make funds available for the implementation of its policy.

10. Mr. van BOVEN, supported by Mr. YUTZIS, said he was in favour of retaining the paragraph since the measures needed for implementing the Convention might in some cases require the commitment of substantial resources.

11. The CHAIRMAN said he took it that the majority of members were in favour of deleting the paragraph.

12. Paragraph 15 was deleted.

Paragraph 16

13. Mr. VALENCIA RODRIGUEZ (Country Rapporteur), referring to a suggestion by Mr. Diaconu, proposed that the end of the second sentence should be amended to read: "... in this region and the surrounding areas, where there are still displaced persons and the conditions for a normal life are not ensured.".

14. After a brief discussion, the CHAIRMAN said that, since the paragraph specifically concerned Chechnya, the proposed amendment would be placed at a later point in the draft concluding observations.

Paragraph 18

15. Mr. GARVALOV, referring to an earlier suggestion by Mr. Sherifis, proposed that the word "mentioned" should be replaced by "listed".

16. Mr. de GOUTTES said that that change might raise a problem in the French version, but did not object.

17. Paragraph 18, as amended, was adopted.

Paragraph 21

18. Mr. DIACONU proposed the deletion of the phrase "in the budgets of the State and the Republics".

19. Mr. SHAHI proposed the deletion of the whole paragraph.

20. Mr. SHERIFIS proposed that, taking account of the deletion proposed by Mr. Diaconu, the word "Adequate" at the beginning of the paragraph should be replaced by "Increased".

21. Mr. GARVALOV agreed with the amendments proposed by Mr. Diaconu and Mr. Sherifis.

22. The CHAIRMAN said he took it that that was the consensus of the Committee.

Paragraph 21, as amended, was adopted.

Paragraph 24

23. Mr. GARVALOV said that it appeared that for the first time the Committee was recommending ratification of another Convention.

24. The CHAIRMAN pointed out that paragraph 24 recommended that the State party should merely consider ratifying International Labour Organization (ILO) Convention No. 169. Personally, he would have preferred deleting the paragraph. It was not for the Committee to recommend the ratification of conventions adopted by specialized agencies. He saw a risk of opening Pandora's box.

25. Mr. van BOVEN agreed that such a recommendation was not strictly within the Committee's scope. But in the case under consideration, he was in favour of making an exception, because such recommendations had been made in the past, because the Committee had shown a special interest in the rights of indigenous peoples and had adopted General Recommendation XXIII on that subject, and because ILO Convention No. 169 was the only international instrument which addressed the question.

26. Mr. SHERIFIS said that either the paragraph should be elaborated upon to make it clear what ILO Convention No. 169 contained or, even better, it should be deleted.

27. Mr. de GOUTTES said that as there were other equally important instruments which could also be recommended, singling out ILO Convention No. 169 entailed a risk. He agreed that the paragraph should be deleted.

28. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) explained that he had included the reference because Mrs. Sadiq Ali had stressed that the State Party should consider ratifying ILO Convention No. 169, during the Committee's consideration of the periodic report.

29. Mr. NOBEL said that the Committee should avail itself of the opportunity it had in its dialogues with State Parties to recommend those instruments which might play a positive role in the specific situation which it had been discussing. If approached in that way, the danger of opening Pandora's box would be limited.

30. The CHAIRMAN, speaking in his capacity as a member of the Committee, said that in that case, the Committee could just as well ask those countries which had not already done so to consider ratifying the Covenants or their protocols. He noted that other proposals made by the Committee had not been included in the concluding observations. He had reservations on accepting paragraph 24 as it stood.

31. Mr. YUTZIS said that a balance must be struck between formal criteria and certain objectives. He did not see any danger of opening Pandora's box. Since the question of indigenous peoples was an issue which in a sense lay at the heart of the Convention and of the Committee's concerns he saw nothing wrong in referring to another instrument which helped achieve its objectives. The Committee should not place greater emphasis on formal problems than on the benefit which would be derived from such a reference. The point was not to ask a State Party to consider ratifying a whole set of instruments, but only one which the Committee felt was in the best interests of its own Convention.

32. Mr. DIACONU said that there were perhaps a hundred countries in the world with indigenous peoples. He did not recall the Committee having made such a recommendation to other States Parties to the Convention. If it did so now, it would have to make a similar recommendation to all the other countries concerned. In his view, the reference to the indigenous populations in the Russian Federation in paragraph 19 (h) was sufficient.

33. Mr. van BOVEN drew attention to the fact that in paragraph 69 of its report to the General Assembly of 1997 (A/52/18), the Committee had noted that following its recommendation, ILO Convention No. 169 had been ratified by Guatemala in 1996.

34. Mrs. SADIO ALI proposed the following amendment to paragraph 24: "Regarding the indigenous peoples, the Committee recommends that the State Party consider ratifying ILO Convention No. 169".

35. The CHAIRMAN said he took it that the amendment was acceptable.

36. Paragraph 24, as amended, was adopted.

Paragraph 26

37. Mr. DIACONU proposed deleting the reference in paragraph 26 to General Recommendation XXI.

38. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that he supported the proposal by Mr. Diaconu and other members to delete the reference to General Recommendation XXI. The new paragraph, which would begin after the quotation marks and would contain an additional phrase at the end to take account of Mr. Diaconu's proposed amendment to paragraph 16, would then read as follows: "The Committee recommends that the State Party reinforce its measures to protect human rights in Chechnya, Ingushetia and North Ossetia. Measures should be taken in particular to ensure that serious breaches of international humanitarian law do not remain unpunished, that the victims be afforded just and adequate reparation and to ensure normal conditions of life and of return for displaced persons."

39. Mr. SHAAI supported both amendments to paragraph 26. There had been no need to mention General Recommendation XXI because the question of separatism had not arisen.

40. Paragraph 26, as amended, was adopted.

The concluding observations concerning the fourteenth periodic report of the Russian Federation as a whole, as amended, were adopted.

41. Mr. RECHETOV observed that he had refrained from participating in the discussion of the report or of the concluding observations concerning the Russian Federation, although he was convinced that the Committee's decision on impartiality was not a good one and was at variance with the Convention.

42. The CHAIRMAN said that as he understood it, there had been a proposal to amend the rules of procedure in respect of Committee members taking the floor when the reports of their own countries were being discussed, but he was not aware that any decision had been taken on it. He had always been of the opinion that nothing prohibited any member of the Committee from taking the floor on the report on his or her own country. All members of the Committee were presumed to be impartial; the Committee would have benefited from Mr. Rechetov's views on the subject at hand.

43. Mr. RECHETOV said that it had been his impression that there had been such a decision, but he would not pursue the point.

44. He wished merely to stress the importance of paragraph 21, of the concluding observations, because in its original version it had called upon both the federal Government and the republics to commit themselves financially to improving the situation. The fact was that whenever the central Government instructed the governments at Republic level to work to improve relations among ethnic groups, the reply was invariably that they had no funds.

45. Mr. de GOUTTES said that the Committee was in the process of reopening in an indirect fashion an important question which it had already discussed on numerous occasions in the past, namely the attitude of members of the Committee when the report of their country was considered. There was no consensus on that issue in the Committee, and quite a few members were in favour of restraint. He noted that the position of the Human Rights Committee on the question of the independence of members went much further than that of the Committee on the Elimination of Racial Discrimination. Rather than taking up the question hastily, he was in favour of returning to it in greater depth at another time.

46. The CHAIRMAN said that the Committee would not take up that issue unless a fresh amendment to the rules of procedure was submitted. There was currently no rule that prevented a member from making a statement on a report concerning his or her own country and nobody was justified in casting doubt on the Committee's independence. He himself intended to make a statement on the next report of Egypt unless an amendment to the rules of procedure was adopted in the meantime. At the current session, a member had spoken on his own country's report and the Committee had found his contribution useful in drafting its concluding observations.

47. Mr. YUTZIS said he understood that Mr. de Gouttes was suggesting that the Committee should arrange to have a conclusive debate on the issue instead of engaging in open-ended discussions whenever the problem arose.

48. The CHAIRMAN said that Mr. de Gouttes was free to reintroduce a corresponding amendment to the rules of procedure.

49. Mr. GARVALOV reminded Mr. Shahi that he himself had raised the issue of separatism twice with the delegation of the Russian Federation. On the second occasion, a member of the delegation had asserted that the Chechens were demanding nothing short of independence, whereas the central authorities were seeking a peaceful political solution.

Draft concluding observations concerning the initial report of Switzerland
(CERD/C/52/Misc.28*, future CERD/C/304/Add.44)

50. Mr. van BOVEN (Country Rapporteur) said that he had incorporated all suggestions received from fellow members except in the case of paragraph 14, which called for a decision by the Committee as a whole.

Paragraph 11

51. Mr. NOBEL felt that the recommendation to the State Party to review its current immigration policy, presumably with a view to adopting a more generous approach, should be more specific. What the Committee had found objectionable was the ideology underlying the so-called "three-circle model", which seemed to draw invidious distinctions between people of Swiss or European origin or civilization and others. He suggested that the State Party should be urged in paragraph 11 to review the ideological basis of its current immigration policy.

52. Mr. BANTON, supported by Mr. van BOVEN and Mr. SHAHI, proposed using the same wording as in paragraph 6, urging the State Party to review those elements of its current immigration policy which classified foreigners on the basis of their national origin.

53. Mr. NOBEL agreed with the proposal.

54. Paragraph 11, as amended, was adopted.

* Document distributed at the meeting in English only.

Paragraph 13

55. The CHAIRMAN suggested that, for ease of reference, the wording of articles of the Convention should be quoted briefly in future because not everyone could immediately associate a particular provision with an article number.

56. It was so agreed.

57. Paragraph 13 was adopted.

Paragraph 14

58. Mr. BANTON proposed that paragraph 14 should be deleted as incompatible with the Committee's mandate.

59. Mr. van BOVEN (Country Rapporteur) agreed that the recommendation concerning funding was somewhat unusual. However, the explicit reference in the report of Switzerland to participation by the Swiss authorities in European campaigns and special events had prompted him to draw attention to the United Nations Voluntary Fund for the Decade to Combat Racism, which was desperately in need of funds.

60. The recommendation in the second sentence was consistent with article 2, paragraph 1 (e). He had been surprised that the Swiss authorities were not more supportive in financial terms of local organizations and institutions dealing with race relations.

61. A vote was taken on paragraph 14.

62. Paragraph 14 was adopted.

63. The draft concluding observations concerning the initial report of Switzerland as a whole, as amended, were adopted.

64. Mr. van BOVEN (Country Rapporteur) said that the Committee had received a letter from the Swiss Government, following the drafting of the concluding observations, in response to Mr. Shahi's question concerning racist propaganda on the Internet. The Committee could include the letter in its report to the General Assembly as a State Party comment in accordance with article 9, paragraph 2 of the Convention, or cover it in a report on the expert seminar on the role of the Internet in the light of the Convention.

65. Mr. BANTON proposed that a summary of the communication should be included in the Committee's report to the General Assembly, perhaps in a new section on general matters under Chapter III which would also cover, for example, the Committee's discussion of the structure of concluding observations.

66. Mr. SHAHI supported Mr. Banton's proposal. The Swiss communication was a very important document in view of the amount of racist propaganda being disseminated with total impunity on the Internet.

67. It was so agreed.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

68. The CHAIRMAN said he wished to draw the Committee's attention to a very important matter. In the past, Committee members had sometimes been subjected to pressure, threats and complaints from States but had always refused to accept them. He recalled General Recommendation IX, which stated, in part, that the Committee, "alarmed by the tendency of the representatives of States, organizations or groups to put pressure upon experts, especially those serving as country rapporteurs, strongly recommends that they respect unreservedly the status of its members as independent experts of acknowledged impartiality serving in their personal capacity". He had previously drawn the Committee's attention to the issue of complaints addressed to certain governments concerning the opinions expressed during the Committee's discussions of State Party reports, and on that occasion as well the Committee had declared the practice unacceptable, asserting that its members were free to express their opinions and views and that no pressure should be exerted on them or threats addressed to them.

69. On the previous day, he had been asked to meet a certain gentleman who had come as a representative of a non-governmental organization (NGO), accompanied by an assistant, to seek information on what he, the Chairman, had said during the Committee's consideration of the report of Switzerland (CERD/C/270/Add.1) with reference to the writer Roger Garaudy. The visitor had accused him of being anti-Semitic, but the Chairman was himself a Semite; he had accused him of denying the Holocaust, which he had never done; and he had threatened him in many ways, which was unacceptable, whether it came from an NGO, a State Party or even his own Government. No one could pressure or threaten him concerning an opinion he had expressed in the Committee.

70. He knew he was not the only one to have been contacted by the gentleman in question; other members of the Committee had also been pressured and threatened. The gentleman had said that he would publish an article attacking the Committee, that he knew everything that went on in the Committee, that he had asked for tape recordings of the meetings and that more than half its members were anti-Semites. At that point the Chairman had ended the conversation and had decided to bring it to the Committee's attention, not for discussion, and not out of fear or as a complaint, but simply to have it placed on record to make it clear that such conduct and threats would not work with the Committee.

71. He invited the Committee to consider further pending issues.

72. Mr. GARVALOV said that he and Mrs. Sadiq Ali had completed the drafting of their part of the joint working paper on article 7 of the Convention being prepared by the Committee and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, which they hoped would be approved by the Sub-Commission at its August 1998 session. The latest revised version was contained in CERD/C/52/Misc.1/Rev.3.

73. Mr. DIACONU said it was time to deal with the issue of reservations to human rights treaties. In the report of the ninth meeting of persons chairing the human rights treaty bodies (document without a symbol), the chairpersons had asked for letters of support for the approach reflected in General Comment No. 24 of the Human Rights Committee. That issue, which had already been dealt with by the International Law Commission and some other committees, was very important and required discussion by the Committee.

74. Mr. RECHETOV said the Committee should not only support the Human Rights Committee on the matter but should also consolidate its own experience of the previous 20 years. It was a very substantive question and could not be dealt with in a short letter. He proposed that he and Mr. Diaconu could prepare a working paper on reservations, which could be sent to Committee members for discussion a month before the Sub-Commission session.

75. Mr. DIACONU said that he and Mr. Rechetov had different opinions on the issue. He did not agree with General Comment No. 24 of the Human Rights Committee but rather with the preliminary conclusions of the International Law Commission. However, he consented to Mr. Rechetov's proposal.

The meeting rose at 5.30 p.m.