



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

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## Committee on the Elimination of Racial Discrimination Seventy-seventh session

### Summary record (partial)\* of the 2011th meeting

Held at the Palais Wilson, Geneva, on Monday, 2 August 2010, at 10 a.m.

*Chairperson:* Mr. Kemal

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\* No record was prepared for the rest of the meeting.

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*The meeting was called to order at 10.10 a.m.*

**Opening of the session**

1. **The Chairperson** declared open the seventy-seventh session of the Committee on the Elimination of Racial Discrimination.

*Statement by the representative of the Secretary-General*

2. **Ms. Edelenbos** (Human Rights Treaties Division), speaking as representative of the Secretary-General, reviewed developments since the Committee's previous session.

3. At its ninth session in April 2010, the Working Group of Experts on People of African Descent had analysed structural discrimination against people of African descent and discussed possible activities in 2011 to mark the International Year for People of African Descent. Mr. Lahiri and Mr. Murillo Martínez had represented the Committee at the session and prepared a report on the outcome. The Committee would also hold a preliminary discussion on the thematic debate concerning people of African descent to be held at its next session in early 2011.

4. Many stakeholders, including treaty body experts, had responded to the High Commissioner's request in 2009 for comments and proposals on ways to streamline and strengthen the treaty body system. A number of initiatives had been launched or were planned. For instance, the Dublin Statement on the Process of Strengthening of the United Nations Human Rights Treaty Body System had been issued in November 2009. The Moroccan Advisory Council on Human Rights had invited national human rights institutions to a meeting on the strengthening of the human rights treaty body system in June 2010 and the participants had adopted the Marrakech Statement. A follow-up event to the Dublin meeting, to which all treaty body chairpersons had been invited, would be held in a few months' time in Poland. A civil society consultation meeting was also planned.

5. The eleventh Inter-Committee Meeting and the twenty-second Meeting of Chairpersons of human rights treaty bodies had been held respectively from 28 to 30 June and on 1 and 2 July 2010. Mr. Kemal and Ms. Dah had represented the Committee. The Inter-Committee Meeting had agreed on a number of points that had been endorsed by the Chairpersons' Meeting. For instance, it had noted with interest the optional reporting procedures adopted by the Committee against Torture and the Human Rights Committee in respect of lists of issues prior to reporting, and had recommended that the two Committees should report back to the twelfth Inter-Committee Meeting in 2011 on their experiences in implementing the procedures and should include a preliminary assessment of the advantages and challenges in their report. It had also encouraged other treaty bodies to consider adopting similar procedures.

6. The Inter-Committee Meeting had taken note of the decision by the Committee on the Elimination of Racial Discrimination to replace the list of issues with a list of themes that did not require written replies and was intended to guide the dialogue between the State party and the Committee.

7. The Inter-Committee Meeting had welcomed the preparation of a joint general comment by the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women and had recommended that other treaty bodies should explore the possibility of issuing joint general comments.

8. The Office of the United Nations High Commissioner for Human Rights (OHCHR) was very much aware of the ongoing difficulties faced by the treaty bodies in obtaining timely translation of their documents. It was also a persistent problem for other United Nations human rights mechanisms and the situation had been deteriorating in recent years. OHCHR was giving high priority to the issue but it relied on the leadership of the treaty

body system. As United Nations Conference Services had recently expressed concern about the length and linguistic quality of State party submissions, the Inter-Committee Meeting had drawn attention to the limit of 40 pages applicable to periodic State party reports under the harmonized guidelines on reporting (HRI/GEN/2/Rev.6, para. 19). It had recommended that all treaty bodies should highlight in their concluding observations the need for States parties to respect the page limits. In addition, it had requested the secretariat to prepare a document explaining the rationale underlying the limits and to ensure that they were applied in practice, for instance by conveying the concerns expressed by United Nations Conference Services to all States parties by means of a note verbale and by requesting a State party whose report failed to meet the requirements to review and possibly resubmit its report.

9. Participants in the eleventh Inter-Committee Meeting and the seventeenth annual meeting of special procedures mandate holders had jointly recommended more systematic cross-referencing of the recommendations of special procedures and treaty bodies. For instance, special procedures' recommendations and invitations for country visits could be taken into account in treaty bodies' concluding observations. Similarly, special procedures mandate holders should refer to treaty bodies' recommendations and decisions in their reports and during country visits. It had been emphasized that recommendations should be specific, measurable, achievable, realistic and time-bound.

10. The themes for the next Inter-Committee Meeting were: structure of the dialogue with States parties and interaction with stakeholders; and continuation of the discussion on the structure and length of concluding observations. The secretariat had been asked to prepare a background note on the two themes. In addition, one thematic working group was to meet at the beginning of each year. The first group to be convened, in mid-January 2011, would focus on follow-up and would be divided into a subgroup on reporting to treaty bodies and a subgroup on individual communications.

11. At the initiative of the OHCHR Regional Office in Belgium, the twenty-second Meeting of Chairpersons of human rights treaty bodies had been held on 1 and 2 July 2010 in Brussels. It had been the first Meeting of Chairpersons to be held outside Geneva, the main objective being to bring treaty bodies closer to NGOs and regional mechanisms and to raise awareness in Europe of treaty body work in order to forge stronger links and promote synergies between international and regional human rights mechanisms. The Chairpersons had engaged with high-level representatives from various European Union institutions, including the European Commission and the European Parliament. Bilateral meetings had been organized with the Registrar of the European Court of Human Rights and the Secretariat of the European Union Agency for Fundamental Rights. The Chairpersons had also met representatives of civil society organizations and academia.

12. They had discussed, among other things, the applicability of the United Nations human rights treaties to European Union action; their implications for EU policy-making, legislation and practical work; and the role of the European Union in promoting treaty ratification as well as follow-up to the recommendations of the United Nations treaty bodies.

13. The event had enhanced the visibility of the treaty body system at the EU level, enabling regional and international human rights mechanisms to collaborate and mutually reinforce one another and providing tools to OHCHR regional offices to boost the impact of treaty body output. The Meeting of Chairpersons had recommended that in future it should meet every second year at the regional level to raise awareness in all regions of treaty body work.

14. Since the previous session, Estonia had recognized the Committee's competence to consider individual communications under article 14 (1) of the Convention, thus bringing

the number of States parties that recognized such competence to 54. Ten States parties had submitted periodic reports since the previous session.

15. With regard to the other treaty bodies, in June 2010 Ecuador had become the first State to ratify the new Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. Only two more ratifications were required for the entry into force of the International Convention for the Protection of All Persons from Enforced Disappearance. In addition, the membership of the Committee on Migrant Workers, the Subcommittee on Prevention of Torture and the Committee on the Rights of Persons with Disabilities would increase due to new ratifications.

16. Such developments were encouraging, but the treaty body system was also facing major challenges. While each treaty body was an independent legal mechanism monitoring a specific treaty, it was essential to develop and uphold a clear vision of a coherent treaty body system. It was incumbent on all treaty bodies to contribute to the process by further improving and harmonizing their working methods.

17. OHCHR had engaged a consultant to map out treaty-body-related work flows and work processes in the Office and to submit concrete recommendations on how treaty reporting and implementation could be better integrated into the overall mandate of OHCHR. The consultant's work was already well advanced. The High Commissioner and OHCHR as a whole hoped to see broad agreement on a meaningful set of measures to strengthen the treaty bodies in the near future and they counted on the Committee's expertise and support in that regard.

18. During the current session the Committee would consider the reports of 11 States parties in the following order: El Salvador, Islamic Republic of Iran, Uzbekistan, Romania, Australia, France, Slovenia, Morocco, Denmark, Bosnia and Herzegovina, and Estonia. It would consider two cases under the complaint procedure, a number of cases under the early warning and urgent action mechanism, and a number of countries under the Committee's follow-up procedure. It would meet the Chairperson of the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. The Committee would also have an informal meeting with NGOs and hear from three national human rights institutions concerning States parties whose reports were to be considered at the current session. It would have a closed meeting with representatives of United Nations entities for the same purpose.

19. **Mr. Thornberry** enquired about the subject matter of the joint general comment by the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women. There was no formal mechanism for such initiatives but the Committee had frequently expressed interest in discussing general comments on subjects such as indigenous peoples and hate speech with other treaty bodies.

20. While he was pleased to hear that a fifty-fourth State party had accepted the article 14 procedure, he deplored the fact that all communications to date had come from just nine States parties. He wondered whether the procedure was not sufficiently well known in civil society or whether complainants tended to have recourse to rival United Nations procedures. Perhaps the consultant who was currently preparing recommendations on the treaty body system could look into the matter.

21. **Mr. Avtonomov** welcomed the steps that were being taken to streamline and strengthen the treaty body system. He emphasized the importance of developing a procedure for the drafting of joint general comments to ensure more consistent interpretation of treaty articles and norms.

22. He feared that if reports were returned to States parties on the ground that they failed to comply with the guidelines, the States concerned might simply give up reporting altogether. It might be advisable to offer assistance to States parties that were finding it difficult to draft a report. For instance, he had been involved in a trip sponsored by the United Nations Development Programme (UNDP) to Turkmenistan, during which it had become clear that State party representatives failed to understand elementary points concerning the submission of reports.

23. He urged the Committee to hold a discussion during the session on the recent tragic events involving ethnic Uzbeks in Kyrgyzstan.

24. **Mr. Amir** suggested that the Committee should also discuss the possibly discriminatory social impact of recent natural disasters, for instance forest and peat fires in the Russian Federation and flooding in Pakistan, where more than 1 million people had been made homeless, and in China. He was also concerned about the follow-up to the natural disaster in Haiti. It was unclear whether different categories of victims had benefited fairly from the funds donated by the international community. He wondered whether an expert on the subject could be invited to report to the Committee.

25. **Mr. Cali Tzay** said that the translation problem had a particular impact on the work of country rapporteurs. For instance, he was Country Rapporteur for Australia, whose report had not yet been translated into Spanish.

26. He was pleased to note that the Committee's recommendations to States parties were, on the whole, realistic and attainable. It was important to avoid making the same recommendations to States parties with robust economies as to States parties that were struggling to emerge from poverty.

27. He was pleased to hear that Estonia had become the fifty-fourth State party to recognize the Committee's competence under article 14 and agreed with Mr. Thornberry that civil society should be made more aware of the procedure. He proposed recommending that States parties which had recognized the Committee's competence should publicize the article 14 mechanism.

28. **Mr. de Gouttes** welcomed the initiative to prepare joint general comments, which would contribute to efforts to harmonize the work of the different treaty bodies. The limited number of States parties from which individual communications were received was of great concern. It appeared that NGOs, particularly those that defended the rights of the Roma and of indigenous peoples, played a key role in encouraging individuals to bring complaints before the Committee. He suggested that the Inter-Committee Meeting should examine the reasons why complaints were not received from more States parties. He asked how the agenda of the thematic working group meetings would be decided and how long the meetings of the working group and its two subgroups would last. He agreed with colleagues that the late submission of translations to the Committee was impeding its work. Lastly, he urged the secretariat to continue sending paper copies of State party reports to Committee members in order to facilitate their work.

29. **Mr. Ewomsan** supported that suggestion.

30. **Ms. Crickley** welcomed the initiative to hold a Meeting of Chairpersons away from Geneva. In particular, she commended the cooperation of OHCHR with the European Union Agency for Fundamental Rights and encouraged further partnership between the two bodies. The Agency's research would provide useful information for the Committee's consideration of the situation in EU member States. She suggested that OHCHR should seek to expand regional cooperation in order to ensure that the treaty bodies' efforts towards harmonization were reflected by States parties at regional and local level. One priority should be to raise awareness of the individual complaints mechanism.

31. **Mr. Lindgren Alves** said that, while he welcomed the notion of joint general comments, it would be useful to learn how they would be adopted and what steps would be taken to ensure that all the members of the committees concerned were properly consulted. Turning to periodic reports, it was difficult to see how States parties could be expected to respond to all the matters raised by treaty bodies in a mere 40 pages, and he requested more information on the procedure for asking States to resubmit reports that did not respect the page limit. The Committee's initiative to replace lists of issues with an outline of the main themes to be addressed was a positive step towards limiting the number of questions raised in meetings with States parties.

32. **Ms. Edelenbos** (Human Rights Treaties Division) said that the first joint general comment, being drawn up by the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women, was on the issue of harmful traditional practices and the girl child. The two committees had set up a joint working group to draft the general comment, which would be formally adopted by each individual committee at its own session. There was no established methodology for that process, since that was the first joint general comment. She encouraged Committee members to contact the relevant chairperson if they wished to consider drawing up a general comment in conjunction with another treaty body.

33. She suggested that members of the Committee should consult the staff of the Petitions Unit regarding concerns over the small number of States from which individual communications were received. It was indeed possible that some complaints received were sent to other treaty bodies that had a broader mandate.

34. The consultants hired by OHCHR were examining ways to streamline the internal workflows of the Office, both at headquarters and in the field offices, in order to allow it to improve its support of treaty bodies' work.

35. Recalling that the page limits for State party reports had been agreed at the fifth Inter-Committee Meeting, she said that the secretariat would send a note verbale to all States parties reminding them of the limits. In future, it would contact the Permanent Missions of States parties that submitted reports of over 40 pages in order to explain that it could not guarantee that translations would be provided in the six official languages. Efforts would be made in conjunction with the Permanent Missions to reduce the amount of text for translation, for example, by moving tables to annexes that would not be translated. No reports would be rejected. The secretariat would continue to work with Conference Services to improve the service offered by the translation sections.

36. She welcomed the suggestions on strengthening the level of regional cooperation in order to reinforce the output of the treaty bodies.

37. Two members of each committee would participate in the Inter-Committee Meeting working group – one in the subgroup on reporting to treaty bodies and one in the subgroup on individual communications.

38. If the Committee on the Elimination of Racial Discrimination decided to put the issue of reporting on assistance to the victims of natural disasters on its agenda, the Office would contact the Field Operations and Technical Cooperation Division to ask for a briefing to be given to the Committee.

39. **Mr. Avtonomov** asked whether OHCHR was taking any steps to encourage States parties to ratify the amendment to article 8 of the Convention.

40. **Mr. de Gouttes** asked how many cases would be examined at the Committee's current session under the early warning and urgent action procedure.

41. **Mr. Lindgren Alves** suggested that a subcommittee should be established to examine cases concerning the land rights of indigenous peoples which were often brought before the Committee under its early warning and urgent action procedure. That would enable the Committee to focus under that procedure on cases that risked developing into situations involving genocide, as had originally been intended.

42. **The Chairperson** said that there were currently nine cases to be considered under the early warning and urgent action procedure. The Committee might consider Mr. Lindgren Alves' suggestion at its meeting on that procedure.

**Adoption of the agenda** (CERD/C/77/1 and Corr.1 and 2)

43. *The agenda was adopted.*

*The discussion covered in the summary record ended at 11.20 a.m.*