



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

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-seventh session

SUMMARY RECORD OF THE 1726th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 18 August 2005, at 10 a.m.

Chairman: Mr. YUTZIS

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

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Discussion on treaty body reform

1. The CHAIRMAN welcomed Ms. Ize-Charrin, Officer-in-Charge of the Office of the United Nations High Commissioner for Human Rights (OHCHR). Her willingness to engage in further dialogue with the Committee on the important issue of treaty body reform was greatly appreciated.
2. Mr. SICILIANOS, reviewing the main points raised during the Committee's discussion on treaty body reform, said that the primary objective of any reform proposals must be to strengthen the human rights monitoring system. Racial discrimination affected most contemporary societies and its elimination was crucial to the promotion and protection of all human rights. It was therefore important to ensure that the reforms did not weaken the status of the Convention. The Committee encouraged OHCHR to engage in broad consultations with treaty bodies, States parties, NGOs and national human rights institutions prior to adopting any decisions.
3. While supporting the main objectives of the reforms, the Committee was of the view that the establishment of a single standing treaty body might not be the most effective way to address the weaknesses of the current system. Members had expressed concern that the establishment of such a body might result in the marginalization of certain existing treaty bodies, including the Committee itself.
4. Should a unified standing body nevertheless be deemed necessary, it would be useful to draft a protocol modifying the procedural part of existing treaties, which would be attached to those treaties. In the case of ICERD, such a protocol would modify articles 8 to 24, but articles 1 to 7 would remain unchanged. The protocol should define, inter alia, the competence and composition of a unified standing body. It should also contain temporary provisions to facilitate the transition from the existing to the new system; its entry into force would require ratification by two thirds of States parties. The transition to the unified treaty body system could take many years and might undermine the effectiveness of the existing system. States parties might, for example, use the prospect of a new treaty body to justify their failure to report. While the general objective of enhancing the visibility and effectiveness of the treaty body system was laudable, the implications of the various reform proposals required careful consideration.
5. There were a number of ways in which the effectiveness of the current system could be enhanced without taking such drastic measures as establishing a unified treaty body. The idea of streamlining the reporting procedure by requesting States parties to submit an expanded core document common to all treaty bodies, as well as treaty-specific reports, should be developed further. The recommendations of the chairpersons of treaty bodies should be implemented without delay; it might also be useful to allocate additional time to the annual meetings of chairpersons in order to allow more extensive debate on key issues.

6. Treaty bodies could establish special groups to reduce the backlog of individual communications. Strengthening the Petitions Unit might also help to speed up the processing of communications. In that connection, the idea of establishing a single body entrusted with considering individual communications should be further explored; based on the experience of regional bodies, such a mechanism was likely to gain considerable visibility over time.

7. The Committee welcomed the OHCHR initiative to organize seminars and workshops to enhance the implementation of treaty bodies' recommendations. The relationship between treaty bodies and a future human rights council needed to be clarified in order to ensure complementarity and avoid duplication of effort. The peer review system must be based on individual treaty bodies' recommendations; the human rights council could provide political support to strengthen their work.

8. Mr. ABOUL-NASR said that civil and political rights were often given priority over economic, social and cultural rights. Achieving a balance might be even more difficult if a single body was entrusted with monitoring the implementation of all human rights treaties. He asked whether such concerns were taken into account in the debate on treaty body reform.

9. Mr. AMIR said that it would be useful to define the relationship between human rights treaties and other international instruments. The absence of visible results of treaty monitoring activities was partly due to the insufficient participation of treaty bodies in human rights work on the ground. Strengthening links between the work of treaty bodies and such activities would enhance both the implementation of recommendations, and the promotion and protection of human rights in general.

10. Ms. IZE-CHARRIN (Officer-in-Charge, OHCHR) thanked Mr. Sicilianos for his summary of the Committee's comments on treaty body reform. She had taken note of the additional points raised, which would certainly be taken into consideration. In her plan of action, the High Commissioner had highlighted the need to strengthen the implementation of economic, social and cultural rights.

11. Individual treaty bodies' contributions to the discussion on reform were crucial. The proposal to establish a unified standing treaty body formed part of a search for enhanced protection of groups and individuals at the national level and for greater efficiency in the treaty monitoring system. That search would involve extensive consultations with all stakeholders, a process which had already been initiated. Thus far, no decision had been adopted, and treaty bodies and other stakeholders would be consulted at all stages of the process. OHCHR was currently at the initial stages of identifying areas that would require in-depth examination in the process of developing a concept paper, including: legal and procedural questions relating to the establishment of a unified standing body; possible lessons to be drawn from the experience of regional bodies and other reporting systems; questions relating to the possible modalities of such a body; and the role of stakeholders. An online discussion forum would be set up to enable all stakeholders to participate in the process. Once that facility had been established, treaty bodies and other stakeholders would be informed and requested to comment on specific questions. States parties, United Nations bodies and NGOs had also been invited to seek other ways of contributing to the debate.

12. The concept paper was expected to be available in early 2006, and would be circulated for comment to the Committee and all other stakeholders. The results of brainstorming sessions by States parties would be considered at the next inter-committee meeting and the next meeting of chairpersons of the human rights treaty bodies; it was hoped that the first intergovernmental consultation would take place in the second half of 2006.

13. The High Commissioner was fully committed to ensuring that any reform of the treaty body system would enhance protection for all groups and individuals at the national level, in particular in the area of racial discrimination. Discrimination had been identified by the High Commissioner in her plan of action, which was called for in the Secretary-General's report entitled "In larger freedom: towards development, security and human rights for all" (A/59/2005), as one of the main human rights challenges "preventing us from closing the gap between rhetoric and reality".

14. It was too early to provide answers on such technical issues as whether a single body would result in a single report, or to answer questions relating to membership of the unified body or how it would organize its work. She hoped that those questions would be addressed through the consultation process.

15. Any reform should be based on an acknowledgement of the qualities of the existing system and a clear assessment of its advantages and shortcomings. OHCHR had been actively engaged in strengthening the implementation of treaty bodies' recommendations through various projects, in particular by organizing workshops on follow-up all over the world. The implementation of the recommendations of the chairpersons and inter-committee meetings should be enhanced as well.

16. It was too early to clarify the relationship between treaty bodies and the future human rights council; however, any peer review mechanism should have as its starting point for discussion recommendations made by treaty bodies. Over the past five years, the resources, and in particular the human resources, of OHCHR had been greatly reinforced. Examples had included the establishment of a treaty body implementation unit and a petitions unit in the Treaties and Commission Branch. In that connection, OHCHR had regularized 132 posts to ensure stable support for the entire human rights programme.

17. She recalled the High Commissioner's view that the ultimate objective of any reform of the treaty body system must be to enhance the protection of rights-holders and the efficiency of that system. She fully agreed that the pros and cons of a single body would need to be carefully assessed.

18. Mr. de GOUTTES requested additional information on the level of political support for the proposed reform that existed in States parties, NGOs and other civil society organizations. He wondered whether States parties, in particular, would see a unified system as more restrictive than the current system, or conversely, whether they might welcome it on the assumption that it would ease their reporting obligations. He asked if initial contacts with NGOs had revealed whether they thought the unified treaty body would strengthen the human rights system.

19. Mr. SICILIANOS noted that the European system, and to a lesser extent, the inter-American system, had taken the same approach to human rights protection as the United Nations system: a sectoral approach - not a unified approach. He enquired to what extent OHCHR believed that an additional protocol was necessary in order to proceed with the establishment of a unified standing body. Although it was premature to discuss technical details concerning the composition and organization of work of the proposed body, it was nevertheless important to have at least an outline of its general features. If an additional protocol was deemed necessary, negotiations between stakeholders over the technical aspects of the unified body would be difficult and time-consuming owing to the stakeholders' diverse interests.

20. Mr. SHAHI welcomed assurances that, in considering the establishment of a unified treaty body, OHCHR would take into account the suggestions and comments of members of treaty bodies. As soon as the concept paper had been prepared, the Committee would have a basis for formulating its views. He trusted that all members of treaty bodies would be given an opportunity to participate in the online discussion announced by Ms. Ize-Charrin. He wished to know whether the concept paper would contain an estimate of the cost of the unified treaty body system, as compared with the cost of the current system.

21. He requested clarification concerning the specific nature and content of the additional protocol, and asked whether the texts of the human rights treaties would remain intact. The principal problem with the current system was the failure on the part of certain States parties to submit periodic reports or to submit them in a timely fashion. He wondered whether the establishment of a unified system would have the effect of putting more pressure on States parties which tended to shirk their reporting obligations.

22. Mr. KJAERUM said that the proposal to create a single body to head the current treaty body system might make the system more liable to be disregarded by States parties, since one action on their part would affect the entire system. The current system of multiple bodies made it more difficult for States parties which disapproved of a particular position to disregard the entire system. The idea of a unified body to deal with individual communications would offer the advantage of giving greater visibility to the issues involved, thereby reducing the tendency of some States to disregard those issues.

23. Although the approach of issuing concluding observations and engaging in dialogue with States parties was less restrictive than would be the case with an international court, it was possible that that was precisely where the strength of the current treaty body system lay. More research was needed on that subject. He hoped that the reform process would be successful in creating a more coherent system without weakening the system that had been developed to date.

24. Ms. JANUARY-BARDILL said that five problems had been highlighted as justification for establishing a unified treaty body, and it was important to determine exactly where responsibility for those problems lay. The fact that States parties found reporting obligations to be too onerous and that reports were delayed were problems that originated in the manner in which work was coordinated within States parties. The problem of there not being enough time to consider the multiple reports submitted by States parties to various treaty bodies concerned the

management of work within OHCHR and the way in which it had structured the treaty bodies. The notion that concluding observations often lacked the necessary precision to guide reform efforts related to the work of the treaty bodies, but also depended on the will of States parties to implement the observations. Responsibility for the problems of human rights treaty bodies and the fact that they operated on a shoestring was attributable to States parties, which funded the treaty body system. None of those problems was due to the structure of the treaty bodies themselves. The structural solution of merging all the treaty bodies in a unified standing body was ill-suited to the types of problems described. Much more importance needed to be attached to the way in which States parties' periodic reports were written and to ensuring that States parties took the committees' concluding observations more seriously.

25. Mr. AVTONOMOV said that it was difficult to make progress on the issue of reform without knowing the position of the States parties and NGOs. It would be a disadvantage for the proposed unified body to rely upon fewer experts than was currently the case, since a broad representation of countries and legal systems was what enabled the existing committees to be effective. Before any consideration was given to the idea of unifying the treaty bodies, it would be useful to look into other means of consolidating their work, which, in many respects, varied greatly from one body to the next.

26. Mr. THORNBERRY said that despite the fact that racial discrimination was set out in broad, neutral parameters in the Convention, it was a difficult issue to discuss in many countries. Racial and ethnic problems were, however, as much of a problem at the current time as they had been over the previous century. Since a key element of the Convention was its function as a preventive mechanism, care should be taken not to allow the question of race to decline in importance within the United Nations system, whatever the outcome of the reform process.

27. While the Committee was only one of a number of bodies working to prevent racial discrimination, it was a prominent player, with judgemental, preventive, remedial and dialogue functions. It was important to maintain that combined approach, and whichever system was chosen, it should suit the global context.

28. One of the limitations of the Committee's work had been its inability to conduct country visits and to meet with victims of racial discrimination on the ground. Any new body should strive to plug that gap, as opposed to ignoring it. Thorough knowledge of the problems of the current treaty body system had led a number of Committee members to suggest that reform should be carried out gradually, since radical reform on a grand scale often resulted in unforeseen problems.

29. Mr. TANG Chengyuan said that whatever system was chosen, no human rights body should go beyond the limits set by the United Nations Charter. It was important that the question of resources should be considered carefully, given that the Committee had encountered problems, such as discovering that OHCHR did not always have sufficient funds to give States parties technical assistance. However the reform process developed, a future body would have to consider which of the current practices it would abandon, given that it would be impossible to maintain all the work done by the current seven treaty bodies in one standing body.

30. Ms. DAH underlined the fact that all current Committee members would have to accept whatever decision the States parties made. Her preference was for an alternative to the unified standing body. The Committee had built up an impressive body of work over the previous 40 years; regardless of the direction reform took, the United Nations should not allow that progress to be lost. If a unified standing body was created, care should be taken not to disrupt the balance between the different cultures present in the United Nations. She supported the idea of spelling out to States parties how much each reform option would cost, and how it could be financed.

31. Mr. HERNDL cautioned against reform for its own sake. Consultation with all parties, including NGOs, was fundamental to the success of any future reform. Those that proposed reform should ensure that it would fulfil reasonable expectations of improving the system. The High Commissioner had placed too much emphasis on the idea of a unified standing body. She should take care to present other carefully researched options to States parties at the intergovernmental consultative meeting of States parties in 2006.

32. Mr. VALENCIA RODRÍGUEZ said that it would be interesting to know how much the current treaty body system cost in terms of committee meetings, and how much the possible unified standing body would cost. The financing of future reform was an important element that should be clearly explained to States parties.

33. Mr. ABOUL-NASR asked how committees could ensure that their reports received the attention they deserved. It would be useful to consider a mechanism that would allow NGOs to participate in committee debates. A further goal was to make it easier for committee members to contact each other between sessions. It would be interesting to know why CERD was the only committee that did not have Arabic interpretation facilities. He also wished to know what could be done to minimize the administrative problems committee members sometimes faced, such as having to make stopovers during flights to Geneva merely to comply with United Nations regulations.

34. Mr. AMIR said that the United Nations needed to develop a global strategy to respond to such challenges of the modern world as poverty, discrimination, armed conflicts and terrorism. The strategy, which would be at the centre of the reform of the United Nations, should give priority to human rights and should be formulated by legal experts.

35. Mr. LINDGREN ALVES pointed out that most people knew very little about the treaty bodies. Recalling that in the past there had been many ideas on how to streamline the reporting system, he asked why the creation of a unified standing body was the only idea still being considered and who had mooted it. It would also be useful to know how many experts would make up the standing body and how it would be possible to find so many experts who would be available throughout the year.

36. Ms. IZE-CHARRIN (Officer-in-Charge, OHCHR) agreed with Mr. de Gouttes that political support for the proposed reform was of great importance, but pointed out that consultations with States parties had commenced only recently. She stressed the need to take into account the views of NGOs, which had expressed a strong desire to be consulted.

37. Replying to Mr. Sicilianos' questions concerning an additional protocol to the Convention, she said that OHCHR would need the Committee's help in considering that issue. She encouraged the Committee members to actively participate in the online discussion on the possibility of setting up a unified treaty body. A concept paper would then be drawn up taking their views into account. Although it was too early to estimate the cost of such a body, the issue would have to be addressed in the future.

38. She invited Committee members to work with Mr. Schmidt, head of the petitions unit, who was particularly interested in the possibility of setting up a single body to deal with individual complaints and would welcome any input in that regard. Experts from other treaty bodies, in particular the Human Rights Committee, had also shown great interest in the idea.

39. In mid-September 2005, Heads of States intended to sign a document in which they would undertake to double the regular budget of OHCHR within five years. The current regular budget was about US\$ 27 million a year. The regular budget accounted for one third of the total OHCHR budget, and two thirds came from extrabudgetary funds. Many States had expressed their support for increasing OHCHR resources from both the regular budget and the extrabudgetary funds.

40. She emphasized the usefulness of inter-committee meetings, which enabled experts of various treaty bodies to become familiar with the work of other treaty bodies. Continuous efforts were also being made to keep experts in contact with each other between sessions. She would welcome any ideas in that regard.

41. Ensuring that States parties understood the importance and interdependence of the three pillars underlined by the Secretary-General, namely, development, security and human rights, would help promote their commitment to the reform process.

42. Replying to Mr. Valencia Rodríguez, she said that servicing a standing body would not increase the burden on the secretariat because its staff were already servicing meetings of the treaty bodies and the Commission on Human Rights for a total of 57 weeks every year.

43. In response to Mr. Lindgren Alves, she said that the question of setting up a unified standing human rights treaty body inevitably involved consideration of a wide range of issues. The question had been referred to by the Secretary-General in his report entitled "In larger freedom: towards development, security and human rights for all" (A/59/2005), and by the High Commissioner for Human Rights in the OHCHR plan of action. However, for the time being it was merely an idea which would have to be given concrete shape over the following months.

The meeting rose at 12.50 p.m.