



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

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

### Summary record (partial)\* of the 1972nd meeting

Held at the Palais Wilson, Geneva, on Monday, 15 February 2010, at 10 a.m.

*Temporary Chairperson:* Mr. Salama (Director of the Human Rights Treaties Division)

*Chairperson:* Mr. Kemal

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\* No summary 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 Temporary Chairperson** (Director of the Human Rights Treaties Division) declared open the seventy-sixth session of the Committee on the Elimination of Racial Discrimination. He welcomed the new Committee members who had been elected on 21 January 2010 — Ms. Crickley, Mr. Kut and Mr. Saidou — and congratulated Mr. Amir, Mr. Ewomsan, Mr. de Gouttes, Mr. Kemal, Mr. Lindgren Alves and Mr. Thornberry on their re-election.

### **Opening statement by the Director of the Human Rights Treaties Division**

2. **Mr. Salama** (Director of the Human Rights Treaties Division), reporting on several developments that had taken place since the seventy-fifth session of the Committee, recalled that at its sixty-fourth session the General Assembly had endorsed the outcome document of the Durban Review Conference and had adopted resolution A/RES/64/148 entitled “Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action”, in which it had particularly welcomed the emphasis placed by the Committee on the importance of follow-up to the Durban Review Conference. It had, however, expressed grave concern that universal ratification of the Convention had not yet been achieved, despite commitments under the Durban Declaration and Programme of Action, and had called upon those States that had not yet done so to accede to the Convention as a matter of urgency.

3. In response to the recommendations of the Durban Review Conference, the United Nations High Commissioner for Human Rights had decided to assign one additional staff member to assist the core team supporting the Committee’s work and had begun the recruitment process. In addition, she had recently launched the Strategic Management Plan for the 2010–2011 biennium, which identified the elimination of discrimination, in particular racial discrimination, as one of its six priorities. It also included various activities, especially developing a communication strategy to promote ratification of the Convention and increase awareness of the complaints procedure under article 14 of the Convention.

4. With regard to the harmonization of working methods, the Committee might wish to consider the recommendations and points of agreement identified during the tenth Inter-Committee Meeting of the human rights treaty bodies, held in Geneva in November 2009 and at which the Committee had been represented by Mr. Amir, Ms. Dah and Mr. de Gouttes. The eleventh Inter-Committee Meeting, to be held in June 2010, would focus on lists of issues and targeted reports, including the application of the reporting guidelines on common core documents and treaty-specific reporting. In accordance with a suggestion made at the tenth Inter-Committee Meeting, the second inter-committee meeting of each year would become a working group to focus initially on strengthening follow-up and then on other topics identified at the inter-committee meeting.

5. In her statement at the twelfth session of the Human Rights Council, the High Commissioner had encouraged all relevant stakeholders to reflect on how to streamline and strengthen the treaty body system so as to make it more coherent and effective. In that regard, in November 2009 some former and current treaty body experts had taken part in a meeting in Dublin organized by the University of Nottingham in order to reflect on the future of the treaty bodies and to propose a framework for strengthening the treaty body system. The statement adopted at the end of the meeting had been circulated to all the treaty bodies. That initiative marked the beginning of a process of reflection that would offer all

stakeholders the opportunity to express their views on the issue in their individual capacity or as members of a treaty body.

6. On 1 January 2010 the Human Rights Treaties Branch had been transformed into a Division with, thanks to High Commissioner's support, a larger budget and improved structure, especially in order to take account of the expansion of the treaty body system and to ensure that each treaty body had its own core staff. The core staff assisting the Committee was located in the Civil, Political, Economic, Social and Cultural Rights Section. Lastly, he was aware of the considerable workload before the Committee; the Human Rights Treaties Division would provide any assistance the Committee required.

#### **Solemn declaration by the newly elected members of the Committee under rule 14 of the rules of procedure**

7. In accordance with rule 14 of the rules of procedure, Mr. Amir, Mr. Ewomsan, Mr. de Gouttes, Mr. Kemal, Mr. Lindgren Alves and Mr. Thornberry, re-elected members of the Committee, and Ms. Crickley, Mr. Kut and Mr. Saidou, newly elected members, made the following solemn declaration:

“I solemnly declare that I will perform my duties and exercise my powers as a member of the Committee on the Elimination of Racial Discrimination honourably, faithfully, impartially and conscientiously.”

#### **Election of officers, according to rule 15 of the rules of procedure**

##### *Election of the Chairperson*

8. **The Temporary Chairperson** (Director of the Human Rights Treaties Division) invited Committee members to nominate candidates for the office of Chairperson.

9. **Mr. Lahiri**, seconded by **Mr. Huang** Yong'an, nominated Mr. Kemal.

10. *Mr. Kemal was elected Chairperson by acclamation.*

11. *Mr. Kemal took the Chair.*

12. **The Chairperson** thanked the Committee members for electing him unanimously. Emphasizing the exemplary manner in which the outgoing Chairperson, Ms. Dah, had assumed her functions, he said that he hoped to meet the challenge he faced. He welcomed the newly elected members and the new secretary of the Committee, Ms. Habtom, and was gratified to learn that the Committee could count on the support of the Human Rights Treaties Division.

##### *Election of the Vice-Chairpersons*

13. **The Chairperson** invited Committee members to nominate candidates for the three posts of Vice-Chairperson of the Committee.

14. **Mr. Thornberry** nominated Ms. Dah for the office of Vice-Chairperson.

15. **Mr. de Gouttes** nominated Mr. Prosper for the office of Vice-Chairperson.

16. **Mr. Murillo Martínez** nominated Mr. Calí Tzay for the office of Vice-Chairperson.

17. *Ms. Dah, Mr. Prosper and Mr. Calí Tzay were elected Vice-Chairpersons.*

##### *Election of the Rapporteur*

18. **Mr. Thornberry** nominated Mr. Diaconu for the office of Rapporteur.

19. *Mr. Diaconu was elected Rapporteur.*

**Adoption of the agenda (CERD/C/76/1)**

20. *The provisional agenda was adopted.*
21. **Mr. Amir** commended the contribution that the two experts who had left the Committee at its seventy-sixth session, Mr. Aboul Nasr — one of the drafters of the Convention — and Mr. Sicilianos had made to the Committee's work.
22. He proposed that the Committee should observe a minute of silence in tribute to the memory of the victims of the earthquake in Haiti, especially the United Nations staff members who had lost their lives.
23. **Mr. Calí Tzay**, supporting the proposal, requested that Committee members should also observe a minute of silence in tribute to the memory of Mr. Miguel Alfonso Martínez, a Cuban jurist and United Nations expert who had died recently in Havana.
24. At the invitation of the Chairperson, all Committee members and those present observed a minute of silence in tribute to the memory of the victims of the earthquake in Haiti and Mr. Martínez.
25. **Mr. Prosper**, thanking Mr. Amir for his initiative and, more generally, the whole of the United Nations for their thoughts and deeds for his former home country, where he had grown up, said that much remained to be done to make Haiti a better place.
26. **The Chairperson** invited Committee members who wished to do so to put questions to the Director of the Human Rights Treaties Division.
27. **Mr. Thornberry** asked Mr. Salama to indicate to what extent the different treaty bodies' methods of work were likely to be harmonized over the coming two or three years. Also, although over 170 States had accepted the procedure under article 11 of the Convention, the Committee had received communications from only 9 of those States. He wished to know whether the Committee would be exceeding its mandate if it were to ask States why they had not submitted communications to it. It would in any case be useful to engage in reflection on the subject.
28. He was concerned that non-governmental organizations (NGOs) were decreasingly involved in the work of the Committee. That could partly be down to the high level of interest those organizations had in the work done under the universal periodic review, which had novelty value, but pointed to the need to put relations between NGOs and the Committee on a more formal basis. In addition, since lunchtime briefings were very restricting for Committee members, it would be better to replace them with formal consultations with NGOs.
29. **Mr. Diaconu** said that, having participated in the Forum on Minority Issues in November 2009, he would be grateful if the secretary could, before the end of the session, distribute the final document of that meeting and that of another event that was of key interest to the Committee: the seminar on the nature, issues at stake and challenges of implementing cultural rights, held under the auspices of the Independent Expert in the field of cultural rights in partnership with the International Organization of La Francophonie and UNESCO, held in early February 2010.
30. **Mr. de Gouttes** pointed out that the Committee was committed to improving its relations with the Human Rights Council. He therefore hoped that the Council could draw on the Committee's concluding observations in its work under the universal periodic review; the secretariat was already working actively to that end. Similarly, he hoped that the Committee would be informed about the availability of universal periodic review documents concerning countries whose reports the Committee would be considering at its current session. He wished to know what measures were being taken to improve such

documents and information exchange. It would doubtless be useful for the Chairperson of the Committee to meet the President of the Human Rights Council.

31. **Mr. Salama** (Director of the Human Rights Treaties Division) said that the previous two years had been marked by two major challenges that had at times led to much controversy, namely the Durban Review Conference and all the related work, and the inter-committee meetings. He paid tribute to the former Chairperson of the Committee, Ms. Dah, whose diplomatic skills had proved most useful in that regard.

32. In reply to Mr. Thornberry's question on future harmonization of Committees' work, there was no preconceived solution. There had been many contributions. The informal Dublin meeting in November 2009 had marked a first step in that direction and had been a success; a similar meeting was being planned with national institutions: all major users and contributors should have a role to play in the reflection process. On the assumption that the United Nations human rights protection system should not be left to the experts alone, but should have room for NGOs and national human rights institutions, he had to agree with Mr. Thornberry that meetings between the Committee and NGOs could not but gain in weight if they were more formal and predictable.

33. The communication issues Mr. de Gouttes had raised were a long-term project, given the constraints of the system and the fact that the universal periodic review was just moving through its first cycle. The Office of the High Commissioner would monitor the situation closely to check whether the modalities for the exercise needed reviewing and adjusting. From a practical perspective, reports submitted for the purposes of the universal periodic review should ideally be available before the Committee's session, and the secretariat should send them to the Committee promptly. While the universal periodic review still attracted a great deal of attention at the national level, the Committee's contribution was far from negligible at the preparatory stage; its conclusions and recommendations were systematically taken up in the compilation prepared by the Office of the High Commissioner and were also quoted by delegates. Much remained to be done to improve coordination between the treaty bodies and the universal periodic review, while ensuring better cooperation and respecting the specificities of the two systems. Probably the most realistic recommendation to have come out of the Inter-Committee Meeting was that all the treaty bodies should prepare a common list containing a limited number of recommendations which, if available in advance, would enable the universal periodic review to be more focused and coherent.

34. He welcomed the fact that the High Commissioner had allocated seven new posts to his Division and trusted that it would prove useful.

35. **Mr. Avtonomov** agreed that it was useful to discuss relations between the different bodies, especially the planning of how they developed, given the diversity of procedures and funding methods. Some committees met with NGOs between sessions, which, for financial reasons, was not the case for that Committee. Nor did they all have an individual communications procedure. Nonetheless, the proposal to establish relations with the Committee on the Rights of the Child so as to have a better idea of the specificities of that body had not been followed up. Could that proposal be re-examined?

36. He welcomed the creation of the inter-committee working groups and thought that holding meetings at the Palais des Nations would allow the Committee to draw more attention to its work, given that most of the NGOs were there attending other meetings.

37. **Mr. Ewomsan** highlighted the importance of the Convention and the need to raise awareness of it. He recommended promotional activities, particularly on the principle of non-discrimination, which was at the heart of human dignity.

38. **Mr. Lindgren Alves** fully endorsed Mr. Thornberry's idea of setting aside time to reflect on the reasons why the Committee received so few communications from States, but failed to see when such a discussion could be organized, given the excessively full programme of work for the current session. He proposed that in future, meetings devoted to consideration of reports should not be scheduled every day for two full weeks. On that note, he apologized for the fact that he would be able to attend only one week, or at the most 10 days, of the session, but pointed out that he had therefore decided to travel at his own expense.

39. Recalling his proposal at the previous session, he proposed that early warning measures should be separated from the urgent action procedure in order to separate the situation of indigenous peoples, important as it were, from truly urgent situations, such as those that raised fears of genocide.

40. **Mr. Murillo Martínez** asked what preparations the Office of the High Commissioner was making for the International Year for People of African Descent, proclaimed by the General Assembly in December 2009 and to be celebrated in 2011, and what measures could be taken to ensure that it was an eventful year. The General Assembly had asked the Office of the High Commissioner, the Committee, and the Working Group of Experts on People of African Descent to submit to it, at its forthcoming session, an action plan on the International Year, which should result in the proclamation of a decade for people of African descent. He also proposed that Haiti should be associated by a symbol with the commemoration of the International Year and, ultimately, the decade, and asked the Committee to consider that possibility at its current session.

41. **Mr. Salama** (Director of the Human Rights Treaties Division) said that the International Year for People of African Descent fell under non-discrimination and could therefore be the subject of initiatives by the Committee. Nonetheless, the core work relating to persons of African descent would be undertaken within the Working Group of Experts on People of African Descent, one of the three bodies responsible for monitoring such activities. In the wake of the Durban Review Conference, the issue had arisen of how to improve the Working Group's effectiveness and how to take advantage of the Committee's work by linking it to the work of the three monitoring bodies. There was therefore significant potential at that level for cooperation on non-discrimination.

42. Regarding relations and exchanges between committees, the Human Rights Treaties Division had recently noted that it was kept informed of committees' activities but that the committees lacked a global vision of their work. In order to fill that gap, the Division had decided to send its daily notes to the different committees and would strive to improve its outreach. In that regard, there was need for a proper balance between the interdependence of human rights and the requirement to preserve the specificity of each right.

43. Additional resources could be requested from the General Assembly on a case-by-case basis so that more time could be devoted to certain activities, such as organizing meetings between sessions. The Committee could discuss with the secretariat whether that would be useful in relation to work that was behind schedule, drawing up the programme of work or other necessary activities. The Human Rights Treaties Division was also discussing the holding of informal meetings in different countries, where the treaty bodies could discuss issues of common interest.

44. As for activities to raise awareness of the Convention, the Office of the High Commissioner planned to implement new, more widely disseminated methods of communication, sharing useful information among committees and opening up access to external stakeholders. He invited the Committee to submit ideas to him on the subject.

45. *Mr. Salama withdrew.*

46. **Mr. Calí Tzay** said it was imperative that the Committee should meet at least once a year at United Nations Headquarters in New York in order to be in direct contact with States that had been unable to submit their reports to the United Nations Office at Geneva. Many States had submitted neither their initial nor second periodic report to the Committee because they did not have the appropriate representation in Geneva. The Committee had been making the same request for several years without success, owing to lack of resources. He would like his request to be submitted to the Human Rights Treaties Division.

47. **Mr. de Gouttes** asked whether the secretariat could draw up, as it had done in 2000, a table of all the individual communications that had been submitted to the Committee and the decisions the Committee had reached in each case. It would be useful to keep the table constantly updated electronically so that the Committee could have a comprehensive, up-to-date record of its jurisprudence. That could also facilitate NGOs' and other human rights institutions' access to the Committee's jurisprudence.

48. **Mr. Diaconu** requested that the Committee should return to the issue of urgent action procedures when it elected the Chairperson of the working group on those issues, as he had some proposals to make on the subject. The countries that had been unable to submit their reports to the Committee because they did not have a mission to the United Nations Office at Geneva were mostly Pacific and Caribbean island countries. There were two ways of engaging those countries in dialogue: organizing a session of the Committee in New York every four years or entering into dialogue with them in their capitals. A joint delegation of experts from the different human rights committees could hold a dialogue with the relevant ambassadors, either in the capitals or New York, to help those countries prepare and submit their reports to the various committees. It would be useful for the Committee to consider that question at the current session and make proposals to the relevant United Nations bodies.

49. **The Chairperson** endorsed the idea of considering Mr. Diaconu's proposal at the current session.

50. **Mr. Thornberry** recommended that the Committee should take the time, since the session had been extended, to examine its working methods as it had done in the past. In particular, it would be useful to discuss the links between its work, the universal periodic review and article 14.

51. Regarding updated information on individual communications, the Human Rights Committee, which handled the highest number of cases, published regular bulletins on the cases it was considering. Given that the Committee examined a smaller number of communications, they were easier to manage. In addition, the Committee should consider the role of NGOs and national human rights institutions in the work of its sessions.

52. The Committee should also consider the issue of establishing working groups in the Committee and dividing up the work by activity.

53. Lastly, it being Committee practice to organize an annual thematic discussion, he proposed holding a discussion on the situation of persons of African descent, from the perspective of racial discrimination, at the current session.

*The discussion covered in the summary record ended at 11.50 a.m.*