



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

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-fifth session

SUMMARY RECORD OF THE 1643rd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 2 August 2004, at 10 a.m.

Chairman: Mr. YUTZIS

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The meeting was called to order at 10.05 a.m.

OPENING OF THE SESSION

1. The CHAIRMAN declared open the sixty-fifth session of the Committee on the Elimination of Racial Discrimination.

STATEMENT BY THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

2. Ms. ARBOUR (United Nations High Commissioner for Human Rights) said that, as the newly appointed United Nations High Commissioner for Human Rights, she wished to reaffirm what her predecessors had consistently stated, namely, that the treaty body system was a central pillar of the United Nations human rights edifice. Implementation of the main human rights instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination, was crucial for realization of the universal aspiration for peace, justice, development, equality and social progress, and the preservation and promotion of the rule of law.

3. Discrimination was one of the chief obstacles to compliance with rule of law principles. During her four years as Prosecutor for the International Criminal Tribunals for the former Yugoslavia and Rwanda, she had dealt with the impact on thousands of women and men, young and old, of conflicts that had had their origin in patterns of discrimination. There was a need to ensure that the root causes of such conflicts were addressed by combating racial discrimination and promoting equality.

4. She noted with satisfaction that the Committee had the possibility, when confronted with acute cases of racial discrimination, of taking early warning measures or initiating urgent action procedures. However, the Committee's work was crucial not only for countries confronted with particularly grave situations but for all other countries, since no country could claim to be free of racism and racial discrimination, and all must remain vigilant and continue to combat racism, including racism in its most insidious forms. The Committee assisted countries in carrying out that task through the dialogue in which it engaged with them when considering their periodic reports, and its recommendations provided them with useful tools.

5. The fundamental human rights standards applied to all human beings. In that context, she had noted with great interest the thematic discussion on non-citizens and racial discrimination held at the Committee's previous session and its efforts to formulate a new general recommendation on the issue. It was to be hoped that the text would be finalized and made public at the current session. The xenophobia to which non-nationals, particularly migrants, refugees and asylum-seekers, were subjected constituted a most disturbing form of contemporary racism, and the Committee's work in that area was very important.

6. At its sixtieth session, the Committee had adopted a statement underlining the obligation of States to ensure that measures taken in the struggle against terrorism did not discriminate in purpose or effect on grounds of race, colour, descent, or national or ethnic origin. Also, in its concluding observations, the Committee had recommended that States parties should balance their national security concerns with the protection of human rights and with their international legal obligations. The Committee's efforts in that regard provided a crucial supplement to the

work of the Security Council Committee established pursuant to resolution 1373 (2001). She trusted that the recent joint meeting of the chairpersons of the treaty bodies and the special procedures mandate-holders on counter-terrorism measures and their impact on human rights and the rule of law would lead to further and improved cooperation between the two sets of mechanisms in that area.

7. With regard to reporting procedures, she noted with satisfaction that the participants in the Third Inter-Committee Meeting, held on 21 and 22 June 2004, had examined the first draft of guidelines for a common core document, and that Mr. Kamel Filali, a member of the Committee on the Rights of the Child, had been appointed rapporteur on the matter. Her Office would continue to work on the draft guidelines in preparation for the Fourth Inter-Committee Meeting and intended to make further proposals. She trusted that, when the members of the Committee discussed the substance of the draft guidelines, they would do so in an open, constructive manner. She was pleased to inform them that Timor Leste had expressed its intention to submit a common core document and treaty-specific reports.

8. Turning to the programme of work for the session, she welcomed the forthcoming meeting between the Committee and the International Law Commission on reservations to human rights treaties, an issue to which she attached great importance. As to the Committee's working methods, she fully supported its decision to appoint a rapporteur for follow-up on concluding observations and pledged her Office's assistance with that initiative.

9. She would follow with particular interest the development of the case law of human rights treaty bodies. In that connection, she noted that only 45 of the 169 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination had made the declaration under article 14. She trusted that that number would increase so as to enable the Committee to develop its case law on the interpretation of the Convention. She also saw a need to make the recommendations and jurisprudence of the treaty bodies more accessible and more visible. It was regrettable that they remained unknown, not only to the general public but also to the vast majority of members of the legal profession, including many human rights lawyers. Lastly, she reiterated her full support for the Committee's work.

10. The CHAIRMAN thanked the High Commissioner for her statement, in which she had highlighted some of the very difficult issues that the Committee would be addressing at the current session. He invited members of the Committee to put questions to her.

11. Mr. SHAHI asked whether there had been any follow-up to the Stockholm International Forum on Preventing Genocide: Threats and Responsibilities, the first such event to be held since the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide more than 50 years earlier. In that connection, he recalled that, at the Committee's previous session, the Deputy United Nations High Commissioner for Human Rights had emphasized the need for further measures to prevent genocide.

12. Mr. ABOUL-NASR, noting the recent upsurge in discrimination on grounds of religion, asked why the High Commissioner had not referred to that phenomenon in her statement.

13. Mr. KJAERUM expressed appreciation for the highly professional work of the staff of the Office of the United Nations High Commissioner for Human Rights, which ensured the

smooth functioning of the Committee. He welcomed the High Commissioner's support for the Committee's decision to appoint a rapporteur for follow-up on concluding observations. There was also a need to expand cooperation with non-governmental organizations (NGOs) and national human rights institutions, and he looked forward to exploring the matter with her further.

14. Mr. AMIR said that he would welcome any proposals the High Commissioner might have for facilitating the participation of representatives of the treaty bodies in conferences on human rights organized outside the framework of the United Nations. Their presence at such events would raise awareness of the international human rights instruments and the work of the treaty bodies, and their expertise would be of great value to participants.

15. Mr. PILLAI observed that, while the reform of reporting procedures for States parties was important, it was also necessary to review and refine the procedure by which the treaty bodies' own reports were considered by the General Assembly.

16. Mr. HERNDL said that the treaty bodies, as independent entities, were a unique element of the United Nations organizational structure and, as such, merited special consideration. Although it was the longest established treaty body, the Committee, like all living institutions, was continuously evolving. It was to be hoped that, as it did so, it could continue to count on the support of the High Commissioner.

17. Ms. ARBOUR (United Nations High Commissioner for Human Rights) said that she wished to join in the expression of gratitude to her staff. Concerning initiatives to prevent genocide, she looked forward to working with the Special Adviser on the Prevention of Genocide appointed by the Secretary-General in July. She had not referred to discrimination on grounds of religion in her statement because it did not fall squarely within the Committee's terms of reference. However, it had not been her intention to downplay the importance of that form of discrimination, and she was cognizant of its links with racial discrimination. Discrimination on grounds of religion was often a camouflage for other forms of discrimination. The practice of religion was essential for the fulfilment of the human spirit, and freedom of religion therefore merited proper protection. She would explore the possibility of facilitating participation by representatives of the human rights treaty bodies in conferences held outside the framework of the United Nations. She had taken note of the concern expressed about the treaty bodies' reports to the General Assembly and the desire to give them greater visibility.

18. It had been instructive for her to hear the views of the members of the Committee and she was pleased to have had the opportunity to do so. She looked forward to following the progress of the current session.

19. The CHAIRMAN said that the promotion and protection of human rights was a collective endeavour. He welcomed the High Commissioner's commitment to that endeavour and assured her of the Committee's support in her difficult task.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (CERD/C/477)

20. The CHAIRMAN expressed his gratitude to Ms. Ize-Charrin for continuing to support the Committee in its work and invited the Committee to comment on the provisional agenda for the sixty-fifth session (CERD/C/477).
21. Mr. de GOUTTES noted that the International Law Commission (ILC) had encouraged the Committee to formulate a general recommendation on racism in the administration of justice. ILC would submit a draft document containing a list of questions relating to that issue. He wondered whether there was a possibility of holding a first debate on the issue during the current session.
22. The CHAIRMAN said that the Bureau would discuss that possibility.
23. Mr. PILLAI asked for clarification of the discrepancy in the list of review countries between the programme of work (CERD/C/65/Misc.2) and the provisional agenda (CERD/C/477).
24. Ms. PROUVEZ (Secretary of the Committee) said that a number of countries had submitted their reports since the Committee's previous session; the up-to-date list of review countries was contained in the programme of work.
25. Mr. ABOUL-NASR asked why the draft general recommendation on discrimination against non-citizens had been distributed to the Committee in different languages. He did not consider it the Committee's responsibility to ascertain the accuracy of the translation. He wished to know which language version would be taken as the reference document in cases where inconsistencies between versions were found.
26. The CHAIRMAN said that, in the past, the Committee had expressed concern about the translation of certain terms. The document in question had been drafted in English and that version would be submitted for adoption. Concurrently, Committee members were invited to comment on the most appropriate rendering of certain terms in their respective languages. That approach had been adopted at the Committee's request.
27. Mr. LINDGREN ALVES suggested that a closed meeting should be held in order to conduct a general debate on the meaning of certain terms, such as multiculturalism, used by the Committee.
28. The CHAIRMAN agreed that a general consensus on terminology would facilitate the consideration of country reports and the drafting of Committee documents. The Bureau would attempt to schedule such a meeting.
29. Mr. de GOUTTES wondered whether the Bureau could finalize the list of countries that had requested postponement of consideration of their reports, especially the review countries.
30. Ms. PROUVEZ (Secretary of the Committee) said that the list of review countries had been updated. Barbados and Zambia had recently submitted their reports. Mozambique, Mexico and Saint Lucia had requested postponement of consideration of their reports under the review procedure.

31. The CHAIRMAN invited a member of the High Commissioner's Office, Ms. Ize-Charrin, to comment on the forthcoming follow-up meeting on the Committee's concluding observations.

32. Ms. IZE-CHARRIN (Office of the High Commissioner for Human Rights) informed the Committee that Egypt had agreed to host the first follow-up workshop on the Committee's concluding observations. The workshop would be held in collaboration with the Committee on the Elimination of Discrimination against Women.

33. Other activities in that area had included the Quito workshop on concluding observations of the Human Rights Committee in August 2002, and the workshop on the implementation of concluding observations of the Committee on the Rights of the Child, held in Damascus in December 2003. The workshops' main goals were to identify obstacles to implementation of the concluding observations of treaty bodies and to devise strategies for their elimination.

The meeting was suspended at 11.15 a.m. and resumed at 12.30 p.m.

34. The agenda was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2)

35. Mr. KJAERUM enquired whether the Bureau intended to include a thematic discussion on genocide and a debate on multiculturalism on the agenda, as had been suggested previously. Prior warning of the inclusion of those items on the agenda would be useful, in order to give members of the Committee adequate time to prepare.

36. Mr. LINDGREN ALVES explained that his suggestion had been for a general debate, as opposed to a thematic discussion, on multiculturalism. Such a debate was necessary because different meanings were attached to the term multiculturalism, depending on the speaker. The Committee should either adopt a common position on its understanding of the term, or issue a statement regarding the different meanings attributed to it.

37. The CHAIRMAN agreed that the definition of multiculturalism was an important topic which required clarification and consensus in order to facilitate the Committee's consideration of State party reports. Given that the Secretary-General had recently appointed a Special Adviser on the Prevention of Genocide, it was a propitious moment to discuss that subject. He assured the Committee that the Bureau would endeavour to allocate time for discussion of both issues within the current session.

38. Mr. THORNBERRY emphasized the need for the Committee, at the current session, to choose the topic for a thematic discussion at the following session. It was important to have timely access to all relevant documentation, and to ensure that a variety of NGOs and other interested groups attended the meeting.

39. Mr. LINDGREN ALVES reiterated the need for the Committee to arrive at a common understanding of several subjects, in order to avoid making inconsistent recommendations to States parties.

40. Mr. AMIR enquired what approach would be taken to the subject of reservations in the meeting with ILC.
41. Mr. PILLAI asked how document CERD/C/65/Misc.16, containing information on the different reservations and declarations made by States parties to the Convention, would be included in the discussions with ILC.
42. Mr. SICILIANOS suggested that, in order to stimulate debate, he could present a brief analysis of that document at the plenary discussion on reservations. The Committee could also consider the letter it had sent to ILC 18 months previously, setting out its initial position regarding reservations. Once the Committee's current position had been finalized, Mr. Thornberry, in his capacity as rapporteur, could communicate it to ILC. Document CERD/C/65/Misc.16 could be distributed to ILC members to facilitate the Committee's contribution to the work of ILC on reservations.
43. Mr. VALENCIA RODRÍGUEZ proposed that the initial document prepared by Committee members on the issue of reservations should be distributed at the plenary discussion, as it had served as the starting-point for the current debate.
44. Mr. AMIR enquired what was the proposed focus of the debate with ILC.
45. Mr. SICILIANOS replied that the fundamental issue was whether the provisions concerning reservations contained in the 1969 Vienna Convention on the Law of Treaties (arts. 19 et seq.) were still valid and applicable to any legal instrument, including human rights instruments. One school of thought considered those provisions to be applicable to all legal instruments, while another, including the Human Rights Committee, believed that some provisions of human rights instruments made it necessary to amend the provisions of the Convention.

The meeting rose at 1 p.m.