



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

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Summary record of the first part (public)* 1682nd meeting

Held at the Palais Wilson, Geneva, on Tuesday, 1 March 2005, at 10 a.m.

Chairperson: Mr. Yutzis

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* The summary record of the second part (closed) of the meeting appears as document CERD/C/SR.1684/Add.1.

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Organizational and other matters (agenda item 2) (*continued*)*Thematic discussion on the prevention of genocide* (continued)

1. **The Chairperson** thanked the Special Adviser to the Secretary-General on the Prevention of Genocide for his presence, which was both a privilege and an advantage, since interaction with other specialized bodies and eminent individuals enabled the Committee to delve deeper into the questions before it. He invited the experts to continue the thematic discussion of the question of genocide.
2. **Mr. Shahi** (the Committee's Rapporteur on the question of genocide) said that the statements made at the previous meeting devoted to the thematic discussion of genocide had brought out the real questions and identified the shortcomings associated with the issue of prevention. He had particularly appreciated the communication from the Special Adviser on the Prevention of Genocide, whose appointment had filled a real gap inasmuch as the Committee only met for two three-week sessions each year. From now on someone would be available to follow up situations the year round, to issue warnings and make recommendations to the Secretary-General, as the Special Adviser had already done in connection with Darfur (Sudan) and Côte d'Ivoire. The Committee intended to cooperate closely with the Special Adviser whenever, after examining the response of States parties to its concluding observations and recommendations, it found it necessary to call the attention of the Secretary-General or, through him, that of the Security Council to a situation requiring action capable of preventing genocide.
3. Although early warning, one of the priorities of the Special Adviser's mandate, was indispensable, the real problem remained urgent action and a lack of the political will to act on the part of the international community, as evidenced, for example, in the case of the Rwandan genocide. In that connection, he had particularly appreciated an NGO report which stressed the invaluable role that the NGOs and civil society could play in urging governments to act to prevent genocide.
4. **The Chairperson**, speaking as an expert, observed that, in the invitation to participate in the thematic discussion, which the Committee secretariat had sent out well in advance, the Committee had noted that the identification of indicators was of fundamental importance; however, that question appeared not to have received much attention during the discussion.
5. **Mr. Yutzis** said that prevention was an essential aspect of genocide situations. He had frequently stressed, in various contexts, that the practice of acting *ex post facto* or while the events were actually taking place should be abandoned, since by that time it was always too late and human lives were in jeopardy.
6. Within the Committee itself, reference had often been made to the difficulties the Committee had experienced in assessing the situation in the countries of the former Yugoslavia. The documents of the period bore witness to a certain blindness to the warning signs of what lay in store, even though at the time it might have been difficult to foresee the extent of what was still a budding conflict.
7. **Mr. Valencia Rodríguez** said that the victors had always slaughtered the vanquished, without distinction as to sex, age, social status, race or property. No one knew exactly how many millions of Native Americans had perished as a result of the discovery of America and the colonization process. The same thing had happened in Africa where Africans had been hunted down before being taken to other countries as slaves. Those practices had been sanctioned by the law and by religion since it was considered legitimate for the so-called civilized peoples to destroy the so-called savages, as the only means of instilling in them the principles of their civilization and their religion. As the Secretary-

General of the United Nations had said, genocide was a new name for an old crime, as old as the history of humanity.

8. In more recent times, even though the law was considered the only arbiter of human behaviour, history told us that millions of human beings – Armenians, Ukrainians, Jews, Gypsies, Slavs, Russians, Chinese, Ibos, Bengalis, Cambodians, Rwandans, North Koreans, Burundians, Sudanese, Ugandans – had been victims of genocide. In Africa and in Asia, the crime could be said to be endemic. On the American continent, in Central and South America, military regimes had annihilated millions of human beings guilty of refusing to submit to their authority or of holding views opposed to theirs.

9. In the aftermath of the Second World War, the victors had set up the Nuremburg Military Tribunal to judge the war criminals. In 1948, the General Assembly of the United Nations had adopted the Convention on the Prevention and Punishment of the Crime of Genocide, in force today. However, that had not been enough to put a stop to genocide. In 1994, while almost a million Tutsis were being exterminated in Rwanda, the great powers were debating whether or not it was legally genocide. Whether it was Rwanda, the massacre at Srebrenica or the Democratic Republic of the Congo, there was no shortage of examples of the international community remaining indifferent or impotent in the face of events. Today, it was displaying the same passivity towards the situation in Darfur, despite warnings from several prominent people about the genocide taking place there.

10. The causes of genocide – political, economic, social, cultural – were numerous but, when examined closely, they all revealed a common origin: hatred of a race, an ethnic minority, a culture or a group. That was what had led the Committee on the Elimination of Racial Discrimination to establish, in 1993, a special procedure known as “early warning and urgent action”, which it had used to deal with situations that threatened to degenerate into genocide.

11. The Programme of Action adopted in 2001 at the end of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance had recommended that the concerned United Nations agencies, bodies and programmes strengthen their coordination to discern patterns of serious violations of human rights and humanitarian law with a view to assessing the risk of further deterioration that could lead to genocide, war crimes or crimes against humanity. Today, the Committee was wondering what more it could do to help to prevent and punish genocide. Its efforts would be in vain without clear and definitive action by all Member States, in particular those with seats on the Security Council. Very often, the political interests of the great powers held back the measures that the Council ought to be taking to confront possible cases of genocide or to intervene effectively when genocide had been committed.

12. On the basis of the conclusions of the report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda (S/1999/1257), dated 15 December 1999, and the recommendations of Gregory Stanton, chair of the global campaign to end genocide organized by the World Federalist Association in the United States, he outlined the main points of a programme of action by the international community to combat genocide: effective and universal operation of the International Criminal Court; support for the early warning and urgent action procedures by means of which the Committee alerts the Security Council to the risk of ethnic conflict and genocide; the creation of a United Nations rapid reaction force capable of intervening quickly to prevent acts of genocide or gross violations of human rights wherever they might take place; the reform of the right of veto in the Security Council to make its use more flexible in genocide situations; cooperation, as broadly based as possible, between the United Nations and outside actors, including NGOs of recognized impartiality and competence; a massive campaign to inform the public about genocide and its prevention in order to obtain the broadest possible support from public opinion.

13. **Mr. Pillai** proposed that the international community consider the need for a study of the genocidal effects of economic globalization. All over the world, governments of every political stripe, though trying to adapt internally so as to face up to those changes as best they could, appeared to be incapable of preventing the adverse effects of globalization, to the detriment of some elements of society, particularly ethnic groups and indigenous peoples.

14. During the 1990s, there had been an increasing tendency for national regulations to favour foreign direct investment (FDI). However, that investment gave priority to sectors in which the foreign investor could earn the greatest possible amount of profit in the shortest possible amount of time. Meanwhile, the government of the recipient country concentrated on the provision of services, in particular infrastructure, in order to make the investment as profitable as possible, often at the expense of social sectors such as health and education. Frequently, the investment benefited certain geographical areas of the country to the detriment of vast regions inhabited by ethnic groups, which were abandoned, with the result that the socio-economic disparities between communities increased. In other instances, the investment was concentrated in huge projects in sectors such as mining, electricity generation, forestry or agricultural plantations located in regions largely inhabited by indigenous peoples, disrupting their way of life and degrading the environment, without the rights of the local population to the land and its resources being duly recognized and without their free and informed consent having first been obtained. When they did receive financial compensation, those people found themselves plunged into an economic reality whose workings were alien to the indigenous culture. They migrated haphazardly to the urban centres in search of work, progressively losing their identity.

15. Economic globalization had appreciably increased capital mobility, which had considerably weakened employee bargaining power. The increased international competition among countries to obtain FDI and access to markets had led to cutbacks in social security. The deterioration in the quality of employment was a growing concern. The groups most affected were the poor, the illiterate and the unskilled, together with migrant workers.

16. It seemed unlikely that the governments of many developing and developed countries would find a satisfactory answer to the problems of ethnic minorities and indigenous peoples when in the country itself powerful domestic interest groups, seeking to obtain something in return for the demands of development, were disadvantaging those sectors of the population and forcing them to abandon their socio-economic markers.

17. He only wished to draw attention to certain aspects of the impact of economic globalization on certain groups and to show how those trends could lead to a phenomenon of “qualitative disappearance” of those communities. In those changed circumstances, it might be advisable to reconsider what was called genocide, so countries could arrive at a common understanding of the genocidal aspects of globalization.

18. **Mr. Thornberry** said that stirring up hatred, by dehumanizing and degrading others, opened the way to situations that could end in genocide, particularly when accompanied by talk of the superiority of one civilization over another or the idea that some groups were more advanced or more backward than others. Theories of that type, which had flourished in the nineteenth century, had given way to contemporary norms based on human rights, which stressed diversity and equality. In those circumstances, the Committee on the Elimination of Racial Discrimination was especially well placed to detect, when examining the reports of States parties, the signs of incipient genocide, particularly when considering matters relating to the administration of justice, the place of minority languages, stereotypes, discrimination in the field of economic, social and cultural rights, and education in tolerance – all factors that made it possible to draw up a “bill of health” for the society under observation.

19. As it was not permanently in session, the Committee could not always respond as rapidly as it might wish when the situation was particularly alarming in one of the States parties to the Convention. Thus, its primary function was to encourage those States to carry out a regular critical examination of the human rights situation on their territory, with account for the international rules in force and, in particular, the provisions of the Convention. Moreover, to avoid trivializing its actions and undermining the efforts made to combat human rights violations at international level, it was preferable that the Committee should take early warning measures or initiate an urgent action procedure only in the event of serious violations of the Convention requiring immediate attention. A welcome development was the recent creation of the Working Group on Early Warning and Urgent Action and the Committee's project to define more precise criteria applicable to those procedures, in particular a method of examining their admissibility similar to the system applied to individual communications. In that way, the Committee's actions would be reinforced and the prospects for a world of peace and tolerance improved.

20. **Mr. Tang** said that the Committee could play an important part in preventing genocide by urging States parties to eradicate the underlying causes of that phenomenon, namely, hatred, intolerance and racial discrimination, as soon as they appeared.

21. He maintained that the role of the Committee would be strengthened if it were given a follow-up mandate that allowed it, in due course, to draw the attention of the Secretary-General to the seriousness of the situation in a given country. He stressed how important it was for the Committee to receive exhaustive, reliable and up-to-date information in order to be able to carry out its tasks and analyse the situation with full knowledge of the facts and, in that connection, called for intensified cooperation with the NGOs, whose aid was precious. He, too, welcomed the creation of the Working Group on Early Warning and Urgent Action and recommended that it be given additional powers. He thought that the role of the Committee was limited by the lack of a mechanism for implementing the Convention and that it was essential to amend the Committee's mandate to enable it to work in conjunction with the other treaty bodies to achieve greater efficiency. Finally, the Committee should assign the same importance to preventing genocide as to fighting racial discrimination, to avoid having one take precedence over the other.

22. **Mr. Kjaerum** said that everywhere in the world racial, ethnic and other minorities were the victims of massive and systematic violations of human rights made possible by discriminatory laws and practices or disregard for the principle that all human beings are equal regardless of race, ethnic origin, skin colour or nationality. None of those forms of violence, whether genocide or ethnocide, should escape the vigilance of the international community. As the principal United Nations body responsible for the elimination of racial discrimination, the Committee had an important part to play and should bear in mind the link that existed between the eradication of racial discrimination and the prevention of violent conflicts, including genocide.

23. The Committee had already resorted to early warning measures or the urgent action procedure on more than 20 occasions, including its attempts to halt the massacre of 800,000 Tutsis in Rwanda in 1994 and to check the process of ethnic cleansing in Bosnia-Herzegovina in 1994–1995. In those latter two cases, the Committee's efforts to end the conflict and massive violations of human rights had been in vain, as had to a large extent its recent calls for the cessation of the crimes against humanity in Darfur, which bordered on the crime of genocide. In the cases of the former Yugoslavia and Darfur, the Committee had not made its voice heard early enough to succeed in curbing the flagrant and systematic violations of human rights. In other cases, the recommended solutions should have been more specific. A more detailed analysis of those situations would doubtless enable lessons to be learned from the mistakes of the past.

24. He was convinced that the Committee, in cooperation many other institutions, had made it possible to avert violent conflicts which could have degenerated and ended in genocide. The Committee's efforts had not been in vain, even though the system needed strengthening. The early warning measures and the urgent action procedure at its disposal had enabled the Committee to respond both to serious violations of the Convention requiring immediate attention and to practices that threatened to end in violent conflict if not checked in good time.

25. The Committee could play a crucial role by providing the Special Adviser to the Secretary-General on the Prevention of Genocide, Mr. Méndez, with information about the laws, policies and practices that could be a sign of discrimination based on race or ethnic origin and risked ending in violent conflict or genocide. He was also in favour of the idea of establishing close relations with the Special Adviser, so as to strengthen the links between the United Nations human rights mechanism and its security mechanisms, such as the Security Council.

26. The follow-up question took on special significance when the massive and flagrant violations of human rights had a racial discrimination component. The Committee's follow-up coordinator therefore had an important part to play in combating manifestations of racism which threatened to culminate in genocide.

27. He also welcomed the fact that the expanded core document intended for all the treaty bodies would include several chapters on racial discrimination, which would draw the attention of the other treaty bodies to the underlying causes of genocide. That would make it easier for the Committee's Chairperson to deal with questions on that subject at the annual meeting of chairpersons of the treaty bodies. In that connection, he would like to see those meetings held more regularly and deplored the lack of resources which was hampering the work of the Committee, in particular, by preventing it from sending some of its members to assess the situation directly on the spot, rather than rely on information provided by NGOs and the reports of States parties.

28. He then stressed the need to strengthen the links not only between the international mechanisms themselves but also between the local and global structures, without forgetting the national institutions and civil society, which had a very important part to play and with which the Committee should establish a more formal relationship.

29. Finally, taking up the idea, recently put forward by the High Commissioner, of ensuring that national strategies for the prevention of genocide were drawn up, he suggested that those strategies be formulated within the context of national action plans for the elimination of racial discrimination, to be finalized in close collaboration with civil society, national institutions, governments and the Committee.

30. **Mr. de Gouttes** said that the Committee should reflect on the underlying causes of genocide cited by numerous speakers on the previous day, including the impact of words and speech, the role of the collective memory, the weight of history, the link between genocide and the construction of group identity, the influence of the media and the effects of multiculturalism.

31. He considered it important for the Committee to apply itself to detecting signs of the existence of a pre-genocidal situation in the reports submitted by States parties and in the context of its dialogue with those States, while incidentally deploring the fact that in 1993 the Committee had failed to spot those symptoms in the case of the former Yugoslavia. Moreover, it had been in response to that situation that the Committee had gone on to lay down the guiding principles applicable to early warning measures and the urgent action procedure. Ten years later, it was time to reflect on the role of the Committee in that respect, bearing in mind that it could not take concrete action as it had no operational

mandate, just as it was unable to sanction a State party that might commit massive violations of human rights.

32. There was also the question of the Committee's relationship with the other entities responsible for discrimination matters, including the Special Adviser to the Secretary-General on the Prevention of Genocide, the Special Rapporteur on Contemporary Forms of Racism and the other special rapporteurs and special procedures of the Commission on Human Rights, bearing in mind that it was desirable to establish close and permanent cooperation among all those entities to avoid duplication of effort, and for all of them to define their specific area of competence.

33. He deplored the lack of resources available to the Committee to take early warning measures or initiate an urgent action procedure, despite the support for those procedures expressed by the participants in the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. In his view, if the Secretary-General and the Commission on Human Rights wanted to see the Committee take a more active part in the prevention of genocide, they should grant it the necessary resources, in particular, to enable it to envisage sending experts on country missions. Finally, the members of the Committee should themselves reflect on the precise terms of the mandate they wanted the Committee to be given, so as to be in a position to submit a formal request to the competent authorities of the United Nations.

34. **Mr. Méndez** (Special Adviser to the Secretary-General on the Prevention of Genocide) welcomed the opportunity for a dialogue with the members of the Committee and assured them that he would spare no effort to share with them all the information he had on the problems of racial discrimination and the risks of genocide. The statements made during the discussion on the prevention of genocide showed that the challenge was to provide immediate protection for the populations in danger while addressing the deep-seated causes of the problem. For example, following a mission he had made to Darfur in September 2004, he had called the attention of the international community to the need to adopt four urgent measures: deploy a greater number of peacekeepers to the Darfur region in order to ensure the security of the population; put an end to impunity and prosecute the perpetrators of abuses; provide humanitarian assistance to protect the population and limit the risks of famine; and, finally, promote negotiations with a view to finding a definitive solution to the problem of Darfur.

35. **Mr. Amir** noted that a number of ideas and observations put forward during the discussion on the prevention of genocide deserved careful study by the Committee, particularly that of Mr. Doudou Diène, Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, according to which the fundamental causes of hatred and hence genocide were not only economic and social but also cultural. That was why, generally speaking, it was important to make a closer study of the origins of hate in order better to eradicate it. Among the solutions recommended, strengthening the legislation of States parties aimed at combating racism, racial discrimination and xenophobia should be an effective means of preventing the risk of genocide. Moreover, he shared the view that the Committee could not be expected to play a greater role in the prevention of genocide without being given the funding required to implement the measures it recommended.

36. **Ms. January-Bardill** drew the attention of Committee members to the gender-related dimensions of racial discrimination and in particular to the fact that racial discrimination did not always affect women and men equally or in the same way, as indicated in paragraph 1 of the Committee's General Recommendation XXV. It was deplorable that the Committee, which had only two women among its members, had not dealt adequately with the specific situation of women within the context of its work and that the Convention on the Prevention and Punishment of the Crime of Genocide did not

specifically mention women among the victims of genocide. Finally, she pointed out that as Chairperson of the Working Group on Early Warning and Urgent Action, she would ensure that the sexist dimension of racial discrimination, racism and intolerance was duly taken into account.

37. **Mr. Herndl** found much that was of interest in the ideas of the non-governmental organizations concerning what the Committee could do to help prevent genocide. He noted that the Committee had an essentially consultative role since it was responsible for making suggestions and general recommendations to the General Assembly based on the examination of the reports and information received from States parties, under article 9 of the Convention, and was in no circumstances a decision-making body. Thus, in establishing an early warning mechanism, the Committee had de facto extended its mandate. Like other experts, he regretted that the Committee had to rely exclusively on the written information provided by States parties for the purpose of expressing its views on a particular matter of concern and lacked the resources needed to make country visits. Where the prevention of genocide was concerned, the Committee would be well advised to increase its cooperation with the Special Adviser on the Prevention of Genocide, inasmuch as the latter reported directly to the Secretary-General of the United Nations. The Committee would probably be led to play a more important role in genocide prevention since the Secretary-General's proposal to set up a committee on the prevention of genocide had been rejected by a majority of the States parties to the Convention on the Prevention and Punishment of the Crime of Genocide on the grounds that its work would duplicate that of other treaty bodies. Finally, he noted that the High Commissioner for Human Rights had stressed the importance of developing genocide prevention strategies at national level and that the Committee should therefore draw the attention of States parties to that point when it considered their reports.

38. **Mr. Cali Tzay** welcomed the remarks of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, according to whom failure to recognize the multicultural realities of a society increased the risk of genocide. He pointed out that indigenous peoples had been victims of genocide since the sixteenth century whereas the crime of genocide had first been officially recognized only in the Convention of 1948. In that connection, he said that the Committee should alert States parties to the fact that the prevention of genocide depended, in particular, on recognition of the rights of indigenous peoples.

39. **Mr. Boyd** supported Mr. Herndl's proposal that the Committee should enter directly into contact with States parties in which violent conflicts were taking place with a view to preventing acts of genocide. He also shared Mr. Thornberry's view that hate speech could incite to violence and provoke genocide.

40. Furthermore, he considered that the conclusions and recommendations of the Special Adviser to the Secretary-General on the Prevention of Genocide concerning the humanitarian crisis in Darfur could be applied to other countries. In particular, the Committee should reflect on the urgent action measures that the Special Adviser had proposed, since they could serve as a road map for avoiding further inaction on the part of the international community when confronted with human dramas on a colossal scale. Those measures included, in particular, the strengthening of the mandate of the peacekeeping forces in terms of both numbers and theory and the deployment of blue helmets to the remote areas to which the most vulnerable had been evacuated. The developed countries could also play a vital role by providing logistical and financial support.

41. **Mr. Avtonomov** considered that the Committee should now ask itself what, in practical terms, it could and should do to prevent genocide. Considering that Member States did not, at present, appear to favour the establishment of a committee on genocide, it might

be appropriate to strengthen coordination between the treaty bodies responsible for ensuring the application of the international human rights instruments with a view to a rapid and concerted response by the United Nations system as a whole. The Committee could also select a series of indicators that could be used to predict ethnic violence and ask the States parties to include them in their periodic reports.

42. **Mr. Lindgren Alves** shared the optimism of Mr. Kjaerum, who considered that the Committee had probably made it possible to prevent violent conflicts from degenerating into genocide by making appropriate and timely recommendations aimed at certain States parties. He was surprised that the proposal to set up a committee on genocide had not met with the approval of Member States and hoped that the discussion on genocide would give rise to concrete and realistic recommendations.

43. **The Chairperson** thanked the members of the Committee for their suggestions and observations on the very important question of the prevention of genocide and indicated that the discussion would be resumed at a subsequent meeting.

The first part (public) of the meeting rose at 12.40 p.m.