



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 of the public part* of the 2005th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 9 March 2010, at 3.30 p.m.

Chairperson: Mr. Kemal

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* The summary record of the closed part of the meeting appears as document CERD/C/SR.2005.

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The public part of the meeting was called to order at 3.30 p.m.

Organizational and other matters

Celebration of the 2000th meeting of the Committee

1. **The Chairperson** said that the 2000th meeting, which had been held a few days previously, represented an important milestone in the history of the Committee on the Elimination of Racial Discrimination. He proposed that the Committee should mark the occasion by remembering the achievements of those members whose labours had helped to build the edifice of the Committee as it now stood. He recalled that the very first meeting of the Committee had been attended by Mr. Aboul-Nasr, a former Committee member who had retired only a few months previously. The Committee would renew its commitment to combating racial discrimination in the years to come, basing its efforts on the Convention and on the collective wisdom accumulated over the past 40 years by its members, both past and present.
2. The secretariat had prepared some statistics on the history of the ratification of the Convention, which showed that the Committee was slowly but steadily approaching its goal of universal ratification. Before 1970, only 37 States had ratified the Convention, but between 1970 and 1979, that number had risen to 68. From 1980 to 1989, 22 States had ratified the Convention; from 1990 to 1999, 29 had done so; and from 2000 to 2010, 19 States had become parties to the Convention.
3. It was regrettable that the composition of the Committee had not been characterized by gender equality over the years. That was a problem that must be rectified by States parties, which should nominate more women experts.
4. He invited those members who had previously served as Chairpersons to share some of their thoughts on the occasion of the 2000th meeting.
5. **Mr. Diaconu** said that the Committee had begun as a small candle but had become a torch that current members must carry and pass on to new members. In his view, serving on the Committee required a leap of faith in the sense that members had to believe in the value of their work. At the same time, they needed to adapt to changing world circumstances while always keeping in mind their ultimate objective: the elimination of racial discrimination.
6. It was thanks to the Committee that the Convention was such a dynamic instrument. There were other important conventions that, because they had no supervisory body, did not have the same vitality or impact as the Convention. The Committee performed work that millions of people around the world looked to with courage and hope. It was important for individuals and States parties alike that the Committee should not disappoint those hopes.
7. Over the years, the Committee had learned to cooperate effectively with States parties by engaging in a constructive but firm dialogue with them. Many States parties had expressed the view that the Committee's intervention was useful to them, even if some found it difficult to accept certain recommendations.
8. The Committee's collective wisdom was the source of its efforts to refine further the implementation of the Convention by States parties. From that standpoint, it was interesting to compare the general recommendations adopted by the Committee in the 1990s with those adopted in the 2000s. Although the number of general recommendations had declined from 17 to 9, the latter recommendations reflected a higher degree of development, refinement and clarity, which were attributable to the Committee's years of experience. He urged members to continue improving their work, recalling that they were answerable to the millions of people who believed in its value, to those who had entrusted them with the office of expert, and to their countries and peoples of origin. Theirs was a task that needed

to be approached with the utmost respect, with the accumulated faith of all those who had come before them.

9. **Mr. de Gouttes** said that negotiations surrounding the formulation of the Convention had been profoundly marked by the divisions inherent in the cold war. One of the merits of the Committee had been its ability to transcend those divisions in its interaction with States parties after the adoption of the Convention in 1965, primarily through what he would term a “legalistic” approach. In the post-cold war period, the Committee had adapted to the new geopolitical situation by interpreting its mandate and the Convention in innovative ways. That was illustrated by the fact that the Committee had found the Convention to contain enough potential to render unnecessary any new instrument or additional substantive provisions for combating racial discrimination, even in its most contemporary forms.

10. The Committee had made progress in both substantive and procedural terms through its dynamic interpretation of the Convention. In terms of substance, its interpretation was reflected in the general recommendations, concluding observations and opinions on individual complaints. Thus, the Committee had adopted a constructive interpretation of the definition of racial discrimination in article 1, adapting its approach over time to cover, for instance, indirect discrimination and the dual or multiple forms of discrimination suffered by certain groups that it identified through its work.

11. With regard to information sources, the Committee had realized, after a restrictive period during which it had relied solely on State party reports, that it needed to broaden its horizons. It had therefore adopted, as early as 1991, a declaration on information sources in which it had stated that the members of the Committee, as independent experts, must have access to a wide range of information from governmental and non-governmental sources. In 1990, the Committee had adopted general recommendation No. 9 on the independence of experts, in which it had expressed alarm at “the tendency of the representatives of States, organizations and groups to put pressure upon experts, especially those serving as country rapporteurs”.

12. Moving beyond a formal legal analysis of indicators of racial discrimination, the Committee had focused on socio-economic and cultural indicators, such as unemployment, unequal access to housing, work, education or social services, and high detention rates, that had enabled it to identify social groups who were particularly vulnerable to marginalization and hence to racial or ethnic discrimination.

13. The crisis in the former Yugoslavia in 1993, followed by those in Somalia and Rwanda, had alerted the Committee to the need for upstream intervention to prevent cases of systematic racial discrimination on a massive scale. In 1993, it had adopted a document entitled “Prevention of racial discrimination, including early warning and urgent procedures” (A/48/18), for which he had served as Rapporteur. The document had subsequently been approved by the United Nations General Assembly and the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. The early warning procedure was based on indicators of emergency situations, the list of which had been extended in 2005 to include indicators of a risk of genocide. The procedure had been applied in more than 20 countries. At recent sessions it had also been applied at the request of indigenous communities who had complained of violations of their right to ancestral land.

14. In 1991, the Committee had instituted the review procedure enabling it to examine the situation in States parties whose reports were seriously overdue.

15. In 2004, it had inaugurated the follow-up procedure, a vitally important innovation aimed at ensuring that States parties took effective action on the Committee’s concluding observations and opinions on individual complaints.

16. The Committee had gradually rationalized its working methods and aligned them with the recommendations of the Inter-Committee Meetings and Meetings of Chairpersons of Human Rights Treaty Bodies. Examples included the appointment of country rapporteurs, the drafting of lists of issues and an increasingly interactive dialogue with States parties.

17. In order to address early criticism of its alleged isolation, the Committee had taken steps to develop its relations with the outside world, for instance with national human rights institutions, which could now take the floor during public meetings, with NGOs in informal settings, with special rapporteurs and independent experts, and with the Human Rights Council.

18. The new procedures had been laid down in a revised version of the Committee's reporting guidelines adopted in August 2007 (CERD/C/2007/1).

19. Looking to the future, he hoped to see a strengthening of the vitally important follow-up procedure, which should also be expanded, if necessary, to include country assessment and fact-finding visits. The Committee should also continue to rationalize its working methods and harmonize them with those of other treaty bodies. He further stressed the importance of consulting States parties and listening to their comments on the Committee's working methods. Relations with national human rights institutions should also be improved and placed on a more formal basis. Lastly, he looked forward to an increase in the Committee's resources in terms of both secretariat support and the capacity to undertake expert missions.

20. **Ms. Dah**, speaking as the most recent Chairperson before the present incumbent, expressed warm thanks to the two previous speakers, who were custodians of the Committee's institutional memory. Their review of the past and advice for the future would doubtless inspire the other members. The celebration of the 2000th meeting provided an opportunity for reflection on how the Committee might be revitalized in the medium term.

21. Despite having spent many years as a career diplomat in international organizations, she had not been prepared for the unique experience of serving on the Committee as an independent expert for the past six years. Instead of receiving instructions from her superiors, she was now required to defend her personal point of view on issues of the greatest importance. She was grateful in that regard to the authorities of Burkina Faso for respecting her independence.

22. Although the Committee's mandate was extremely demanding, it should never allow itself to be discouraged but should renew its commitment to the aims of the Convention whenever it considered a new report, adopted a general recommendation or examined an individual complaint of racial discrimination. The Committee had succeeded over the past 40 years in adapting its procedures and jurisprudence to such circumstances as the cold war, successive cases of genocide, and the new and chameleon-like forms assumed by racial discrimination.

23. Her two-year term as Chairperson in 2008 and 2009 had been a gratifying and unforgettable experience. It had been a special privilege to serve as the first woman Chairperson. She paid tribute to the OHCHR secretariat, without whose invaluable support no Chairperson, no matter how experienced, could perform his or her duties effectively. The three Secretaries with whom she had worked, Nathalie Prouvez, Torsten Schackel and Gabriella Habtom, had been amazingly efficient and had been supported by a dedicated team of assistants. The High Commissioner for Human Rights had also assigned high priority to the Committee's work. Behind the scenes, the interpreters ensured through their admirable professionalism that Committee members were able to communicate effectively.

24. She had worked with many extraordinary fellow Committee members over the past six years, but she wished to make special mention of just a few who had since left. Ms. January-Bardill, the first South African member of the Committee, had been a symbolic figure because the Convention had been drafted in the context of the struggle against apartheid. In that context, she wished to draw attention to the failure of States parties to nominate more women candidates to serve on the Committee. She had been the only woman member in 2008 and 2009 and was pleased to have been joined by Ms. Crickley at the current session.

25. She also wished to mention Mr. Aga Shahi, an outstanding international expert who had provided the Committee with the indicators on genocide. Lastly, she thanked Mr. Aboul-Nasr, who had participated in the drafting of the Convention, for his constant support during her term as Chairperson.

26. The Committee, at 40 years of age, had achieved maturity and she trusted that it would remain strong and vibrant.

27. **The Chairperson** said that the Committee would indeed welcome a better gender balance. He hoped States parties would nominate more female candidates in future.

28. **Ms. Dah** noted that the African Union was ahead of the United Nations in terms of the gender balance on its committees; at least one third of the members of all African Union committees were women.

29. **Mr. Thornberry** said that, since he had joined the Committee in 2001, the environment had changed significantly, as had most of the membership. He had replaced Mr. Michael Banton, an eminent Committee member and a noted theorist on race and racial discrimination. Prior to joining the Committee, he had taken over as Chairperson of the NGO, Minority Rights Group International, in the wake of the assassination of its previous Chairperson, the Sri Lankan human rights defender Mr. Neelan Tiruchelvam. Mr. Thornberry's academic work had focused to a large extent on minority rights. He had also been involved with the Organization for Security and Cooperation in Europe. Particularly in comparison with that body, he noted colleagues' comments on the Committee's lack of country visits and work in the field, and expressed the hope that that might change.

30. While he had been on the Committee, there had been significant advances in international standards in the field of minority rights, indigenous rights and the rights of women and children. He had been somewhat surprised at the focus on minorities when he had first joined the Committee, but minorities were in many ways natural victims of the kind of practices the Committee was aiming to address.

31. The Committee's achievements had included interesting debates on the issues of caste and descent. In addition, he noted its use of the concept of intersectionality, a term that had been coined by the race and gender theorist Kimberlé Crenshaw. While the Committee did not deal specifically with matters of gender or religion, when they overlapped with race and ethnicity, they were considered relevant to the Committee's mandate. Over the years, the Committee had also stressed the importance of addressing hate speech, notably in its general recommendation No. 15. Governments had not always agreed with the Committee on that issue; indeed, it was often the subject of States parties' reservations.

32. While the Committee had possibly not placed sufficient emphasis on the importance of education, he welcomed its increasing focus on the education and training of officials, and also the more substantial aspects such as bilingual and intercultural education.

33. On the issue of multiculturalism, the Committee was somewhat caught between the need for uniformity and the increasing emphasis on a politics of recognition and respect for diversity. Indeed, much of the vitality of the Committee's work resulted from trying to find

the common characteristics in human beings while also recognizing their differences. It could, of course, result in different perceptions among Committee members, who continued to explore the nuances of homogeneity, diversity and equality.

34. He welcomed the fact that the Committee had been able to draw up its general recommendation No. 32 on the often controversial question of special measures and affirmative action. As those issues were often confused with minority rights and indigenous rights, it was important to distinguish between the different elements.

35. By contrast with the apartheid era, when the Convention had been drafted, there were now relatively few States that would deliberately discriminate. While article 2 targeted such State-sponsored discrimination, much of the Committee's focus was currently on States' obligations to deal with activities of individuals, groups and organizations in the private sphere. There had also been much interest in the activities of transnational and national corporations, which was an area the Committee might be required to address with greater resolve in future.

36. The Committee had been innovative in developing procedures, notably the early warning and urgent action procedures, some of which, to the Committee's credit, had been copied by other bodies. The Committee owed a debt of respect to Mr. Agha Shahi for his instrumental role in drawing up the declaration on the prevention of genocide and helping the Committee to develop a methodology for identifying the signs of an impending mass violation of human rights that might culminate in genocide.

37. While some small-scale studies had looked into the effects of the Committee's work, no systematic research had been done in that area. Many Committee members had the impression that the work had indeed been significant in bringing about positive changes. He would therefore welcome a systematic study of the effects of the Committee's work.

38. He remained unsure why only 53 of the 173 States parties to the Convention had made declarations under article 14, and why of those 53, the Committee had received communications from only 9. The Committee should address that issue, since the article 14 procedure gave victims of racial discrimination a specific avenue provided by no other international instrument.

39. It was disappointing that there were so many overdue reports and that a few States parties had yet to submit their initial reports. It was important that States parties were reminded of their reporting obligations.

40. He suggested that the Committee should issue a general statement to States parties prior to elections, indicating that the Committee would welcome an improvement in its gender balance.

41. The Committee was more aware of the ubiquity of racial discrimination than had been the case when the Convention had been drafted, and indeed it had expanded the scope and understanding of racial discrimination itself. The first step towards elimination was raising awareness of the problem, an area in which the Committee had achieved a great deal over the years.

42. The Committee did need to adjust constantly to new human rights environments, including the entry into force of several new human rights instruments, in order to remain contemporary and to continue to expand its influence. It was also necessary to remain focused on the continuing importance of racial discrimination and its high degree of sensitivity in many States. The Committee should ensure it reacted faithfully to its mandate with creativity and wisdom. It should also continue to strive to understand the plurality of the world and the wide range of potential victims of racial discrimination.

The public part of the meeting rose at 4.45 p.m.