



**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 first part (public)\* of the 1666th meeting**

Held at the Palais des Nations, Geneva, on Tuesday, 17 August 2004, at 3 p.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.1666/Add.1.

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*The meeting was called to order at 3.05 p.m.*

**Organizational and other matters** (*continued*)

*Exchange of views with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living*

1. **The Chairperson** thanked the Special Rapporteur on adequate housing for attending the meeting in order to take part in an exchange of views with the Committee on the overlap between the right to housing and the problem of discrimination, and invited him to take the floor.
2. **Mr. Kothari** (Special Rapporteur on adequate housing as a component of the right to an adequate standard of living) said that the mandate entrusted to him by the Commission on Human Rights in 2000 concerned the right to housing in general, including as it was set out in the relevant provisions of the Convention on the Elimination of All Forms of Discrimination against Women (art. 14, para. 2h) and the International Convention on the Elimination of All Forms of Racial Discrimination (arts. 3 and 5). He interpreted his mandate in a broad sense, which encompassed questions such as land law, access to basic services, forced expulsions and, in particular, women's title to land and inheritance rights. He worked in close collaboration with States, civil society, the human rights treaty monitoring bodies, and United Nations bodies.
3. He divided his time between country missions, which occurred two or three times a year, the submission of annual thematic reports to the Commission on Human Rights, participation in international meetings such as the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban and in follow-up meetings held in Africa after the Conference, and collaboration with treaty monitoring bodies, including the Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Discrimination against Women. In his work, he drew inspiration from articles 3 and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, the concluding observations of the Committee concerning the country in which he was on mission, and the Committee's general recommendations XIX (racial segregation), XXIX (discrimination based on descent) and XXX (discrimination against non-citizens). In that regard, he noted with satisfaction that the Committee systematically incorporated the right to housing in the concluding observations that it transmitted to States parties.
4. In addition to the activities just described, at the request of the Commission, the Special Rapporteur had focused in particular on the situation of women with regard to the right to housing and property rights. To that end, regional consultations had been held to give those concerned the opportunity to speak out. The consultations had clearly demonstrated that women were victims of double, and even multiple, discrimination, especially when they suffered from HIV/AIDS or were handicapped. In Asia in particular, the housing conditions of migrant women, who were sometimes obliged to share closet-like spaces with many others, made them particularly vulnerable to all sorts of abuse, including rape.
5. He had identified four phenomena which, because due account was not taken of them, seriously affected certain communities' enjoyment of the right to housing. The first, urbanization, which was developing rapidly worldwide, was putting local communities at an increasing disadvantage in respect of access to basic services and participation in decision-making processes. The second, forced expulsion and displacement of population groups, occurred without any controls and particularly affected ethnic minorities and native populations, which were not only subjected to violence at the time of expulsion, but also obliged to resettle in areas without access to basic services, health care and education. The

third phenomenon, globalization, characterized by the privatization of public services, was making it more difficult for minorities to gain access to housing and basic services.

6. In the course of his duties, he had visited the island of Alcantara in Brazil, home to a community of descendants of African slaves, the quilombolas. In anticipation of the construction of a launch base on the island, the quilombolas had been displaced and resettled in a zone where they had no access to basic services. He asked whether the Committee might consider calling the attention of the State party concerned to general recommendation XXIX on discrimination based on descent.

7. In preparation for the report that he would submit in 2005 to the Commission on Human Rights, which would focus on the homeless, he had studied the situation of families in Chicago (United States of America) that had been obliged to leave their homes after the state assistance on which they depended had been cut. Attempts to find new housing for those families had in fact worsened the already alarming situation of the homeless: reliable studies had shown that more than 80 per cent of those families had been relocated to very poor neighbourhoods with large African-American populations. Given that the exacerbation of that situation was a direct result of public policy, it might be asked whether the State party in question was respecting its obligations under the Convention.

8. He proposed to the Committee members that they might work with him in several areas. For example, when he prepared for a country mission, the Committee could provide him with information obtained from its examination of the report of the country concerned, so that he could conduct a more systematic follow up of the Committee's concluding observations once at his destination. He, himself, could transmit to the Committee a list of standard questions on the right to housing and discrimination that it might wish to ask States parties in the course of examining their reports.

9. He asked the Committee to assist him in figuring out how the Convention, under which States parties must take immediate measures to put an end to a situation of discrimination, could be linked to the right to housing. The point was to determine what States must do in order to rectify immediately a case of discrimination in the field of housing.

10. He proposed sharing with the Committee information on the encouraging results of some of his work, in particular that carried out in Mexico with native populations. The Committee would then be able to use that information as it considered the reports of the States parties concerned.

11. **Mr. Amir** said that the Committee should study the domestic law of countries likely to be affected by natural catastrophes, earthquakes in particular, and ensure that it included provisions on building security. Indeed, the persons most affected by an earthquake generally belonged to the most disadvantaged population groups because they lived in substandard housing. Legal provisions were not sufficient, in the absence of the political will to implement them. It was therefore important, in that regard, for the Special Rapporteur and the members of the Committee to reflect jointly on article 5 of the Convention.

12. **Mr. Cali Tzay** asked the Special Rapporteur to give some other positive examples of his work with autochthons and to provide to the Committee, if he had it, information on the massive displacements of autochthons on the American continent as a whole.

13. In Guatemala housing units continued to be built in areas near active volcanoes, which made those constructions extremely vulnerable. The Special Rapporteur might wish to examine the question of the safety of those units.

14. **Mr. Kjaerum**, noting with satisfaction that the Special Rapporteur had made use of the Committee's concluding observations and general recommendations in his work, urged him to transmit to the Committee members any suggestions that might improve those observations and recommendations since the reports that the Committee received from States parties or from non-governmental organizations (NGOs) rarely provided information on housing. Could the Special Rapporteur tell the Committee where it might get such information?

15. With regard to articles 3 and 5 of the Convention, the criteria for determining whether a violation was due to segregation rather than discrimination were difficult to establish. The opinion of the Special Rapporteur on that matter would be welcome, especially with regard to the thorny problem of segregation arising from private sector activity. He noted with interest the Special Rapporteur's proposal to provide the Committee with a list of standard questions on housing, since that would enable it to study the reports in a more focused manner.

16. **Mr. Pillai** said that the question of discrimination in the field of housing merited close attention because it was usually marginalized groups and communities that lacked access to adequate housing or, even worse, were homeless. In examining the reports submitted to it by States parties under the Convention, the Committee was particularly interested in evaluating the policies, procedures and programmes implemented by States parties to combat those phenomena, but it often lacked the information needed to determine to what extent a population freely exercised its right to housing. Cooperation with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living would be very useful as it would enable the Committee to base its recommendations on precise data. He endorsed the Special Rapporteur's proposal to provide the Committee with a list of standard questions regarding the right to housing, which could be put to the delegations of States parties during the examination of their reports.

17. **Mr. Aboul-Nasr** asked the Special Rapporteur if it would be possible for him to transmit to the Committee the conclusions of his country missions, which would give the Committee a more precise idea of how the country was implementing the various rights set forth in the Convention.

18. **Mr. Shahi** said that States must ensure respect for the right to housing, which gave rise to other rights such as the right to education and to basic health care. Did the Special Rapporteur have data that would make it possible to determine the extent of the phenomenon of homelessness in the world? Could he speak about the impact of globalization on the exercise, or lack thereof, of the right to housing?

19. **Mr. Avtonomov** said that most of the time, it was the poorest population groups and ethnic minorities that were deprived of the fundamental right to adequate housing. It was unfortunate that government measures in the field of housing did not generally benefit severely disadvantaged people living in extremely precarious situations, like the quilombolas of Brazil.

20. **Mr. Valencia Rodríguez**, recalling that the right to own property was a basic right, asked the Special Rapporteur whether he had observed variations in the exercise of that right corresponding to the different legal systems in effect in countries, in particular with regard to expropriation — which was often accompanied by discrimination based on race or ethnic origin — and compensation of the persons concerned.

21. **Mr. de Gouttes** said that it was important to take account of the information provided in the individual communications addressed to the Committee, several of which had already mentioned violations of the right to housing for reasons clearly linked to the ethnic origin or race of the persons who had been wronged. Such acts of discrimination

were often committed by private real estate agencies, which gave rise to the question of what the State could do to prevent and sanction such offences.

22. **Mr. Thornberry** said that general recommendation XXIX concerning discrimination based on descent, adopted by the Committee in 2002, dealt principally with the caste system, but, in his view, applied equally to descendants of slaves, such as the quilombolas of Brazil.

23. Institutionalized segregation, which sometimes targeted particular population groups within a society, was not to be confused with the choice that was sometimes made by certain communities, for example new immigrants to a country, to live together and be self-sufficient. Therefore, anti-segregationist policies could not, with any decency, be imposed on such groups against their will.

24. **Mr. Kothari** (Special Rapporteur on adequate housing as a component of the right to an adequate standard of living) said that, worldwide, 600 million people in cities and one billion people in rural areas lived in substandard housing, and 100 million people were homeless, women and children being the most vulnerable in that regard. That situation was due mainly to the international community's lack of interest in the question, even though the mandate of the United Nations underscored its clear determination to address that problem.

25. It would be particularly helpful if the Committee were to issue a general recommendation on the question of discrimination in the field of housing. That would not only give concrete form to the debate that the Committee had been having on the matter for many years, but would also provide guidance to States and national human rights commissions in that regard.

26. The fact that communities of immigrants chose to live in isolation, on the margins of society, was not a problem in itself as long as they enjoyed fundamental rights such as education and security, which was not generally the case for the Roma in Europe. It was therefore vital that States adopt an approach based on non-discrimination under all circumstances and ensure that all people on their territory had access to basic services, regardless of the lifestyle they had chosen.

27. Generally speaking, it was the most vulnerable people who, having constructed their own housing, were left homeless in the wake of natural disasters. Construction norms must be established as a matter of urgency, so that the most vulnerable populations would not end up living in substandard conditions.

28. He welcomed the fact that the Committee members had endorsed his proposal to provide it with a list of standard questions pertaining to housing, which they could use when examining State party reports, and he promised to transmit the document to the Committee soon. Furthermore, it might be helpful if he were to transmit to the Committee certain cases of discrimination that had been brought to his attention in the course of his country missions. He also recommended to the Committee that it work closely and regularly with UN-HABITAT and the Office of the United Nations High Commissioner for Refugees on all matters relating to housing.

29. In the course of fulfilling his duties, he had observed that individuals who had lost their homes were rarely compensated, because most of the time, such situations arose from conflicts. That subject merited further reflection.

30. Given the discrimination to which certain communities in Kenya had been subjected owing to their origin, it would be useful to define the various forms of discrimination based on descent, including discrimination in housing, with a view to drafting new standards in that field.

31. **The Chairperson** welcomed the fruitful exchange that had taken place between the Committee members and the Special Rapporteur of the Commission on Human Rights on adequate housing, and expressed his interest in the possibility of pursuing the Committee's cooperation with him. He recommended that the Committee draft a general recommendation on the question of housing and discrimination.

*The public part of the meeting rose at 4.10 p.m.*