



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

Distr.: General  
8 December 2023

Original: English

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## Committee on the Elimination of Racial Discrimination 111th session

### Summary record of the first part (public)\* of the 3040th meeting

Held at the Palais Wilson, Geneva, on Monday, 4 December 2023, at 10 a.m.

*Chair:* Ms. Shepherd

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Informal meeting with States parties

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\* The summary record of the second part (closed) of the meeting appears as document [CERD/C/SR.3040/Add.1](#).

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

### **Informal meeting with States parties**

1. **The Chair** said that she wished to welcome participants to the seventh informal meeting with States parties. Owing to restrictions related to the coronavirus disease (COVID-19) pandemic, it was the first such meeting to be held since 2018. At the meeting, the Committee would provide States parties with an update on substantive and procedural developments, including progress in the treaty body strengthening process. Committee members wished to discuss the individual communications procedure under article 14 of the Convention; cooperation with non-governmental organizations (NGOs) and national human rights institutions (NHRIs); States parties' compliance with reporting obligations; the amendment to article 8 of the Convention; and equitable geographic representation in the membership of the Committee.

2. **Ms. Stavrinaki** said that, in terms of substantive developments, the Committee had deepened its understanding of intersectionality. It had observed how neutral policies affected disadvantaged persons in cross-cutting systems of subordination and how legal and formal equality failed to protect certain populations. Committee members had gained a greater understanding of how racial discrimination interacted with other grounds for discrimination, including sexual orientation, gender identity, health status, migratory status, socioeconomic status and disability. A better understanding of intersectionality allowed for more harmonized interpretation of different human rights treaties.

3. The Committee had adopted its general recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials, which provided a clear definition and standards on such profiling; clarified how profiling occurred and how it breached the Convention; and set out preventive measures that States parties could take. Racial profiling and artificial intelligence were included in the dialogues with States parties and in the Committee's concluding observations.

4. The evidence-based link between climate change and racial discrimination had also been introduced into the dialogues with States parties, with discussions covering how climate change affected every aspect of the lives of people protected under the Convention and led to conflict and forced displacement.

5. A first draft of general recommendation No. 37 on racial discrimination and the right to health had been adopted, which built on the link between racial discrimination and poor health outcomes and clarified the right to health under article 5 (e) (iv) of the Convention. It covered the rights of various minority groups; control over one's health and body; and the right to protection against racial discrimination in an inclusive public health system. During the COVID-19 pandemic, the Committee had issued two statements under its early warning and urgent action procedure, in order to provide guidance on how to mitigate the negative effects of the pandemic on persons protected under the Convention by ensuring non-discriminatory access to vaccines within and among States.

6. Work was being done with the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on a joint general comment on policies for preventing xenophobia.

7. The Committee was reviewing its rules of procedure and working methods and would welcome input from States parties in that respect. It had adopted guidelines to harmonize the procedure for adopting general recommendations and provide clarity regarding the related methodology. Focal points had been appointed on cooperation with other United Nations human rights mechanisms, cooperation with regional human rights mechanisms, article 15 of the Convention and reprisals. Committee guidelines on how to deal with reprisals had also been adopted.

8. Reports submitted by States parties were reviewed by a task force of two or three Committee members led by a country rapporteur. Nevertheless, all members of the Committee could intervene during the interactive dialogue with a State party, and the Committee's concluding observations were considered and adopted by members in plenary. Delegations from States parties were informed in advance of the meeting with the Committee

of the order in which issues would be discussed, in order to facilitate their preparations. Nevertheless, delegations sometimes felt that they did not have sufficient time to respond to questions. The Committee was open to discussing ways to improve the interactive dialogue.

9. The concluding observations of the different treaty bodies had been harmonized, with more targeted recommendations, clearly identified issues of concern and greater consistency. That helped States to rationalize national policies and measures taken to comply with their treaty obligations. The methodology for adopting lists of issues prior to reporting had also been harmonized and the follow-up procedure had been improved.

10. Only 59 of the 182 States parties to the Convention had accepted the individual communications procedure under article 14, even though most States parties had a national body in place to receive such complaints. All States parties were invited to consider accepting the procedure, which could help them to identify violations of rights and prevent reoccurrence.

11. **Ms. Tlakula** said that, since 2015, the Committee had been strengthening its cooperation with NGOs and NHRIs with a view to gaining a full understanding of the situation in States parties. Informal private meetings were held with those organizations, especially if they had submitted reports. The Committee had adopted guidelines on its cooperation with NGOs and NHRIs that highlighted the importance of those organizations and their cooperation with human rights mechanisms. The guidelines also set out criteria for organizations to follow when submitting reports to the Committee; invited them to disseminate the Committee's concluding observations and decisions on individual communications; and underlined the need to protect NGOs from reprisals. The guidelines could be found on the Committee's website.

12. **Mr. Balcerzak** said that, as of 2023, reports were overdue from 62 States parties, of which 48 were overdue by more than a decade. States parties had a clear legal duty to submit reports under article 9 of the Convention. The Committee and the Office of the United Nations High Commissioner for Human Rights (OHCHR) remained available to assist and engage with States parties experiencing difficulties in fulfilling their reporting obligations. If States parties did not submit reports, the Committee could not fulfil its mandate. Follow-up reports were also important and improved the effectiveness of the Committee's engagement with States parties. While the Committee was aware that some States parties whose periodic reports were overdue had engaged in the universal periodic review of the Human Rights Council, that review did not replace or substitute for the mechanism foreseen in the Convention. The treaty body strengthening process would have no impact on States parties' obligations under article 9 of the Convention.

13. **Mr. Kut** said that the amendment to article 8 (6) of the Convention, on provision of sufficient resources to ensure the effective functioning of the Committee, had been adopted in 1992 and endorsed by the General Assembly in resolution No. 47/111. As of December 2023, only 54 States parties had ratified the amendment; 68 more ratifications were needed for it to enter into force. The amendment had been adopted with the aim of ensuring that the Committee had the necessary secretarial support and facilities, and States parties were encouraged to ratify it.

14. **Ms. McDougall** said that the Convention was one of the most widely ratified human rights instruments, with States parties in every region covering a variety of different constitutional arrangements and religious contexts. The geographical and gender diversity of the Committee's membership was therefore of the utmost importance, but there was a downwards trend in its geographical diversity. The Committee was proud of its African majority, but it had only one member from Latin America and the Caribbean and one member from Eastern Europe. It was important that all regions were involved in the Committee's work, and States parties were therefore urged to consider electing members.

15. **The Chair** said that the treaty body system was operating with a significant backlog. Reflections on how the system could be streamlined and harmonized had been ongoing since 2009, culminating in the circulation of a working paper by OHCHR on options and guiding questions for the development of an implementation plan for the conclusions of the human rights treaty body Chairs at their thirty-fourth meeting in June 2022. The key conclusions were on the introduction of an eight-year reporting cycle, the harmonization of working

methods between the treaty bodies, and a digital uplift for the treaty body system. A General Assembly resolution, which was expected to include a budget for the strengthening process, would be adopted in 2024. In preparation for that resolution, States parties were invited to consider the options and guiding questions in the OHCHR working paper, which was available online.

16. The benefits of the treaty body strengthening process for States parties were manifold. The eight-year cycle of reviews would make it easier for States to plan, ensure equal treatment of States and ease the reporting burden. The digital uplift would help to harmonize working methods throughout the treaty body system, thus improving its efficacy and efficiency. The OHCHR working paper outlined three models by which the new reporting schedule could be implemented, all of which gave priority to long overdue and pending reports. The schedule could be introduced in 2025 if the General Assembly agreed on a budget for that purpose in 2024.

17. In terms of next steps, OHCHR had begun a digital uplift project which covered a multilingual portal for filing petitions and requests for urgent action; a petitions case and documents management system; and the introduction of digital tools and platforms to make the system fit for purpose.

18. **Ms. Mandel Barros** (Brazil) said that Brazil was firmly committed to promoting racial equality and had established a Ministry of Racial Equality in January 2023. The country also reaffirmed its commitment to engaging with international human rights mechanisms and contributing to improve their working methods. National policies for the elimination of racial discrimination were being developed and implemented in consultation with civil society organizations, and their participation in the Committee's work should be encouraged. The proposals for strengthening the treaty bodies were a good starting point for discussions, which should be transparent and impartial. The three pillars (the eight-year cycle of reviews, harmonization of committee working methods, and digital uplift) were pivotal. It was important that the Committee verified the sources of data presented in reports and documents. States parties under review should have prior knowledge of information provided by other relevant actors and be granted the possibility to present updates to their periodic reports. Reports needed to be examined more swiftly following their submission. Brazil supported making geographical and gender criteria a formal requirement for election to the Committee, in line with General Assembly resolution 68/268.

19. **Mr. Algeitta** (Libya) said that Libya was committed to the spirit and letter of the Convention. Libyan law prohibited discrimination on any grounds. His country had been unable to submit a report for some time owing to the challenges it had been facing since 2011. Nevertheless, Libya was making efforts in that regard and had established a national mechanism for reporting to the treaty bodies and following up on recommendations. It was hoped that the next periodic report of Libya to the Committee would be ready in 2024.

20. **Mr. Barmin** (Russian Federation) said that strengthening the treaty body system, which was a key element of the international human rights system, was of great importance. While the Russian Federation recognized the Committee's work on individual communications and general recommendations, that work must not delay the consideration of State party reports. General recommendations could not place additional obligations on States parties and must not go beyond the scope of the Convention. The Russian Federation was keen to see a solution to the backlog of State party reports. Nevertheless, the simplified reporting procedure must not be made mandatory or a priority, as it did not give a full picture of the implementation of the Convention by a State party and thus devalued the reporting procedure. A predictable schedule of reporting that did not interfere with sessions of other treaty bodies or the Human Rights Council would be welcome. The Committee and its secretariat were invited to continue to make the necessary efforts to uphold multilingualism, as specified in the rules of procedure.

21. **Mr. García Andueza** (Bolivarian Republic of Venezuela) said that the Bolivarian Republic of Venezuela was committed to combating racial discrimination in all its forms and had adopted policies to that end. His country was preparing to present its report in 2024 and wished to express its support for the work of the Committee.

22. **Mr. Fowler** (Australia) said that Australia considered all recommendations made by treaty bodies and responded to them in good faith through the reporting and follow-up procedures. For treaty body reporting, consultations were carried out with all levels of Government, the Australian Human Rights Commission and civil society organizations. His country was preparing its combined twenty-first and twenty-second periodic reports to the Committee. Australia had concerns regarding the reporting process, which was expensive and onerous in terms of human resources, and it therefore welcomed the introduction of the simplified reporting procedure as an option for all States parties. However, more could be done to facilitate compliance with reporting obligations. The Committee was requested to provide an update on its referral of the situation in Xinjiang Uighur Autonomous Region to the Special Adviser to the Secretary-General on the Responsibility to Protect.

23. **Mr. Jiang Han** (China) said that China was committed to fighting all forms of racial discrimination and believed that all parties should have a deep understanding of the impact of racial discrimination and racism on international security and development and adopt a zero-tolerance approach. China was committed to working with the international community to prevent and combat all forms of racism and racial discrimination.

24. The decision adopted by the Committee in 2022 regarding the Xinjiang Uighur Autonomous Region was based on false information provided in an attempt to smear China. The situation in the Xinjiang Uighur Autonomous Region related to anti-radicalization and anti-extremism; it was not a human rights issue. China pursued a policy of ethnic unity, prosperity and solidarity. The Xinjiang Uighur Autonomous Region enjoyed stability, security, cultural prosperity and religious freedom, with ethnic groups coexisting in harmony. The Committee should work with objectivity and impartiality and engage with States parties concerned on relevant issues. However, the Committee had not engaged with China before adopting its decision, which amounted to an abuse of the early warning and urgent action procedure, thus undermining its credibility.

25. **Ms. Stavrinaki** said that work on general recommendations did not reduce the time available or the capacity for consideration of State party reports. That work was undertaken by members on the basis of the Committee's experience and information from the reporting procedure. It did not include information that had not been discussed with States parties. General recommendations consolidated the Committee's work, with the aim of guiding States parties to avoid violations of the Convention.

26. **Ms. Ali Al-Misnad** said that she would be interested to hear from States parties how the reporting and follow-up procedures could be made less onerous for them and for the Committee.

27. **Ms. McDougall** said that the early warning and urgent action procedure was important because it allowed the Committee to take a preventive approach to time-sensitive issues. The Committee was very careful to verify the factual basis upon which it took action. The matter mentioned by the representative of China had first been discussed during the interactive dialogue with the State party in 2018. The situation had subsequently worsened, and the Committee had considered it important to make a statement with a view to mitigating a violation of the Convention. The Committee's most recent decision on that matter had been referred to the Special Adviser to the Secretary-General on the Prevention of Genocide.

28. **The Chair** said that the simplified reporting procedure was not compulsory. It offered States parties, especially those in the global south and small island developing States, an opportunity to appear before the Committee when they might not otherwise be able to do so. The same was true of the hybrid meetings that the Committee occasionally held.

29. **Ms. Tlakula** said that the reports received from NGOs were made available to the relevant State party.

30. **The Chair** said that those reports could be found on the Committee's webpage. States parties were requested to consult with NGOs when preparing their reports. NGOs were key actors in the Committee's work.

31. **Mr. Ayissi** (Secretary of the Committee) said that reports from NGOs were published online, unless the NGO in question requested that its report remained private. Around

90 per cent of NGO reports were published, and States parties could consult them in preparation of their interactive dialogue with the Committee.

32. **Mr. Amir** said that the Palestinian people had been suffering for 75 years and were disappearing, along with their territory. Women and young children had nowhere to shelter from bombing by the Israeli army. He could not remain silent in the face of another Holocaust. It was the moment for the international community to call for a ceasefire: the killing must stop. People in Darfur were also suffering the negative effects of conflict. He urged the Chair to call on the international community to put an end to the ongoing war and ensure access to health care for civilians.

33. **Ms. McDougall** said that, when the current phase of the conflict between Israel and the State of Palestine had begun in October 2023, the Committee had issued a statement under its early warning and urgent action procedure, in which it had urged the international community and all concerned to call on the warring parties to engage in an unconditional and total ceasefire. The Committee was also drafting a decision on the issue and would continue to take every opportunity to speak out.

34. **The Chair** said that the Committee made decisions collectively, with all Members asked for their views and approval.

35. **Mr. Vega Luna** said that his mandate would soon be coming to an end, leaving the Committee with no Latin American representation. He called on representatives of Latin American countries to remind their governments and authorities of the need for a regional presence on the Committee; the Committee's work was of particular importance to the Indigenous Peoples and people of African descent in the region.

36. Regarding the methodology used in the Committee's work, the Committee took care to ensure that all information provided by public institutions, NHRIs and NGOs was assessed, contextualized and made available to State parties.

37. **The Chair** said that she shared concerns about the underrepresentation of Latin America and the Caribbean on the Committee and hoped that the situation would improve.

38. **Mr. Kut** said that the Committee had acted on the inter-State communication submitted by the State of Palestine under article 11 and, in November 2021, had established an ad hoc Conciliation Commission, in accordance with article 12 (1) (b) of the Convention. The Commission was required to make its good offices available to the State of Palestine and Israel to resolve the dispute in line with the Convention. The Committee would continue to take action beyond the framework of State party reviews and concluding observations, in order to find ways to contribute to an amicable resolution of the situation.

39. **Ms. Nofal** (State of Palestine) said that she thanked the Committee for issuing statement 5 (2023), in which it had expressed alarm at the scale of violence and the humanitarian catastrophe in the occupied Gaza Strip, as well as well-founded fears that the region was being engulfed in a broader conflict. Statements issued by other treaty bodies had been shallow and biased and had equated the oppressor with the oppressed. She was confident that the Committee would take further action to call for a permanent ceasefire and show that the violations of the occupying power would not go unpunished. It was anticipated that the ad hoc Commission would issue statements that would lead to concrete positive changes in the State of Palestine.

40. **The Chair** said that the number of States parties that had attended the meeting was a reflection of support for the Committee's work and for combating all forms of racism and racial discrimination. State party support and financial contributions were vital to the effective functioning of the treaty body system. Committee members would continue to speak out on situations of racial discrimination and to pursue bilateral discussions with States parties.

*The public part of the meeting rose at 11.45 a.m.*