



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

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-eighth session

SUMMARY RECORD OF THE 1141st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 5 March 1996, at 3 p.m.

Chairman: Mr. FERRERO COSTA
(Vice-Chairman)

later: Mr. BANTON
(Chairman)

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Thirteenth periodic report of the United Kingdom of Great Britain and Northern Ireland (CERD/C/263/Add.7 (Part II)) (continued)

1. At the invitation of the Chairman, Mr. Head, Mr. Steel, Mr. Wells, Mr. Neale, Ms. Fitzgerald, Mr. S. Wong, Mr. P. Wong, Ms. Chan, Mr. Dean, Ms. Ip, and Ms. Doherty (United Kingdom) took places at the Committee table.
2. Mr. STEEL (United Kingdom) said that the report to be submitted by his country in August 1996 would relate only to Hong Kong, in view of its special circumstances; the report for the United Kingdom would appear in two years' time. As for the submission of reports after 1 July 1997, he was not in a position to say what would or should happen. The responsibility would have passed to the People's Republic of China, which was a signatory to the Convention and was aware of its reporting obligations.
3. Mr. S. WONG (United Kingdom), replying to questions put the previous day, said that Hong Kong shared the Human Rights Committee's interpretation of article 22 of the Hong Kong Bill of Rights. However, rights enshrined in international instruments other than the Covenant on Civil and Political Rights were not necessarily justiciable. With regard to the prohibition of racial discrimination by private individuals or organizations, he referred the Committee to paragraph 30 of the Hong Kong report. Existing legislation already made adequate provision for cases of incitement to racial hatred by individuals or groups. A study of racial discrimination was, however, due to be initiated later in the year to assess what problems were not adequately covered by current legislation and what measures might be appropriate. Racial discrimination on the part of individuals would be considered in that context.
4. With regard to Vietnamese migrants, he said that the supplementary information provided by his delegation showed that living in detention was not a pleasant experience. The migrants were, however, provided with all necessities and Hong Kong had no plans to reduce the services it provided. Preschool and primary education was provided by the United Nations High Commissioner for Refugees. Secondary education had been withdrawn, since it had been determined, after screening, that all the migrants should return to Viet Nam; in any case, secondary education was not provided in similar circumstances in other parts of the world. Hong Kong had no wish to detain the Vietnamese at all; their future was in their own hands. Moreover, between August and December 1994, and again from April 1996, the United Kingdom had given and would give \$150 to each migrant voluntarily returning to Viet Nam. While they were in detention their life was made as pleasant as possible. He deplored any violence that had taken place; it had become necessary for the authorities to use force when migrants refused to accept the inevitable and employed violent tactics that affected other inmates. Tear-gas was used as a last resort.
5. With regard to the suggestion that an independent human rights commission should be set up, he said that Hong Kong was committed to the protection of

human rights, but such a commission was not the best way forward in Hong Kong's particular circumstances. It was well served by its Bill of Rights, an independent judiciary, legal aid, an ombudsman, an elected legislature, an active advisory committee on civic education, a free press and monitoring by both local and international non-governmental organizations (NGOs). It was more sensible to build on that basis than to establish a new body with an unspecified mandate. Moreover, more improvements were already in hand: the judiciary would be given additional resources in order to reduce the delays in bringing cases to court; and an equal opportunities commission to deal with discrimination on the grounds of sex or disability and a privacy commission to deal with the misuse of data were being established.

6. All laws would be drafted in two languages by 30 June 1997. Hong Kong was committed to the wider use of the Chinese language both in the courts and in the civil service; the use of written and spoken Mandarin was encouraged. A strategy was in place to ensure that by July 1997 all court documents would be available in Chinese. Members of a jury currently had to meet a certain standard of English, but that was now being reconsidered; a lower standard might be acceptable. However, English should be retained in order not to jeopardize Hong Kong's considerable financial standing.

7. Ms. CHAN (United Kingdom) said that the two-week rule for foreign domestic workers, to which Mr. van Boven had referred, applied to all foreign workers; it did not discriminate on the basis of race, colour or national origin. The rule applied only to the premature termination of a contract due to the financial insolvency of the employer or maltreatment. In normal circumstances a domestic worker could enter into a new contract, with no restrictions, when the old contract expired. Such workers usually returned home on holiday before coming back to take up their new employment. The purpose of the two-week rule was to curb the previously prevalent practice of "job-hopping", whereby workers would deliberately terminate their contracts in order to be able to stay on indefinitely. Foreign workers were treated equally with the other people of Hong Kong; they received statutory holidays, insurance and all other rights. They were entitled to appeal to labour tribunals and to receive legal aid for petitions against insolvent employers.

8. Mr. DEAN (United Kingdom) said that Hong Kong would indeed be publicizing the Committee's recommendations; it took its responsibilities in that regard very seriously. A report of the previous day's proceedings had already been relayed to the Hong Kong press and a colleague had been interviewed on the radio. Hong Kong systematically disseminated the various human rights treaties, generally through schools. Children were encouraged through competitions and exhibitions to appreciate the relevance of human rights to their everyday lives. NGO materials were also used for that purpose.

9. Mr. YUTZIS said that, while he was impressed by the additional information provided, he had been struck by the frequency with which members of the delegation had made reassuring statements about the incidence of racial and religious discrimination and racial tension. Their assertions contrasted with negative reports from media, NGO and other sources. The Committee would have to reach its own conclusions, particularly since there was a long-standing divergence of views between the Committee and the State party on the interpretation of article 4. Many members of ethnic minorities felt that

acts of racial harassment were not adequately presented by the competent authorities. The Human Rights Committee had in July 1995 expressed concern at the low level of support afforded to ethnic minorities, which was reflected in the recruitment figures of the police and other services.

10. Mr. VALENCIA RODRIGUEZ invited the United Kingdom to provide additional information, in its next report, on the application of article 6 of the Convention and on three aspects of immigration that had not been covered in depth, namely the so-called "white list" which referred to certain countries and was presumably drawn up by the Home Secretary; the fact that employers were often called on to act like immigration officers in granting or refusing employment; and the situation regarding the withdrawal of benefits to asylum-seekers.

11. Furthermore, the Committee would welcome information on discrimination against the Irish population. He wondered whether the Government intended to act on the recommendation by the Commission for Racial Equality that Irish persons should be treated as a specific group in population censuses.

12. Mr. RECHETOV said that the transfer of Hong Kong to Chinese sovereignty should be monitored by the international community. However, the United Kingdom proposal to present a report solely on Hong Kong raised procedural questions. The United Kingdom report gave little information on overseas territories other than Hong Kong, and that deficiency should be remedied in the next report.

13. Mr. van BOVEN (Country Rapporteur) thanked the delegation for its report and its frank and detailed replies to the Committee's questions. Several areas of concern remained, however. The first was the question of deaths in custody, which were the subject of inadequate intramural investigation by the police, rather than by an independent body. With regard to immigration and asylum also, the replies had been unsatisfactory, suggesting that the delegation had underestimated the depth of the Committee's concerns. Notwithstanding official declarations to the contrary, Government policy on the matter was not free of racial bias. In other areas it was clear that there were issues on which the Committee and the United Kingdom did not agree, particularly with regard to the interpretation and implementation of article 4 of the Convention. That would be reflected in the Committee's concluding observations.

14. A commitment to combating racial discrimination required a comprehensive approach - not just legal measures - including the allocation of sufficient financial resources. Organizations providing legal and social assistance to victims of racial discrimination were doing valuable work but were poorly funded. The Government's offer to provide a report on the situation in Hong Kong was welcome, although the procedural issues that raised should be considered.

15. Mr. HEAD (United Kingdom) thanked the Committee for its constructive comments and said that written answers to the Committee's questions would be provided.

16. The CHAIRMAN commended the delegation for the report and for its frank dialogue with the Committee.

17. Mr. Head, Mr. Steel, Mr. Wells, Mr. Neale, Ms. Fitzgerald, Mr. S. Wong, Mr. P. Wong, Ms. Chan, Mr. Dean, Ms. Ip and Ms. Doherty (United Kingdom) withdrew.

18. Mr. Banton took the Chair.

Eleventh and twelfth periodic reports of Finland (CERD/C/240/Add.2; HRI/CORE/1/Add.59)

19. At the invitation of the Chairman, Mr. Aarnio, Mr. Kosonen, Ms. Pietarinen and Mr. Cortez Tellez (Finland) took places at the Committee table.

20. Mr. AARNIO (Finland) pointed out that Finland had undergone a demographic transformation in less than 10 years, with 69,000 resident non-Finnish nationals currently comprising 1.2 per cent of the population. Opinion polls showed that attitudes to foreigners had hardened among certain sectors of the population, especially the young. The Government of Finland had stepped up its efforts to combat racism and discrimination, and had recently appointed a working group on the subject.

21. Finland had joined the European Union in 1995. Membership had helped to increase knowledge of the phenomenon of racial discrimination and had had some impact on the status of the Samis and the Roma.

22. The Government had made a declaration under article 14 of the Convention but had not thus far been asked to comment on any communications. Finland had also signed and ratified the European Charter for Regional or Minority Languages. It had declared its intention to apply 59 provisions of Part III of the Charter to the Sami language as a minority language, and 65 provisions to the Swedish language as a less widely used official language of the State than Finnish. It would apply the general principles of Part II to the Roma language and other non-territorial languages to the extent appropriate. Finland had signed the Council of Europe Framework Convention for the Protection of National Minorities, which would be applicable to all the national minorities in the country once it entered into force.

23. The rights of minority groups and measures taken against discrimination had been detailed in periodic reports to various human rights treaty bodies, including the Committee on the Rights of the Child. In December 1994, the Government had appointed a high-level National Delegation against racism, xenophobia and anti-Semitism. The Delegation was answerable to the Ministry of Foreign Affairs and was mainly concerned with consciousness-raising activities in respect of racism and intolerance.

24. The second part of the revised Penal Code had entered into force on 1 September 1995 with some parliamentary amendments. The text of selected articles would be distributed to the Committee as an annex to the report. The revised chapter II of the Finnish Constitution Act of 1919, relating to fundamental rights, had entered into force on 1 August 1995 and applied

explicitly to all persons, including non-Finnish nationals, within Finland's jurisdiction. The task of monitoring the implementation of rights fell to the Chancellor of Justice and the Parliamentary Ombudsman. The main purpose of the revision had been to broaden and strengthen the constitutional protection of rights on the lines laid down by international human rights covenants, as well as to promote equality.

25. The issue of the Sami people was currently of public interest in Finland. Responsibility for coordinating Sami affairs had passed from the Ministry of the Interior to the Ministry of Justice. According to the new section 14 (3) of the Constitution Act, the Samis as an indigenous people, as well as the Roma and other groups, had the right to maintain and develop their own languages and cultures; the new constitutional provisions ensured inter alia the right of the Sami to use their language before the authorities - though not in parliamentary proceedings, contrary to the statement in paragraph 54 of the report - and to enjoy cultural autonomy within the Sami homeland. The new Sami Thing (Parliament) had been inaugurated the previous week. However, the new legislation had given rise to protests by the non-Sami population. One controversial issue was the new definition of a Sami formulated in section 3 of the Act on the Sami Thing, which an association of opponents to cultural autonomy claimed to embrace most of its members. The association was calling for fresh elections to the Sami Parliament, since its members had by definition been disqualified from voting in the previous elections, held before the Act had been passed. It was widely feared that the broader definition would allow a mass electoral registration of persons no longer connected with the ethnic population. The Act required the authorities to negotiate with the Sami Parliament on all measures which affected the Samis as an indigenous people.

26. The state of affairs he had described was complicating the process of ratification, by Finland, of ILO Convention 169 on indigenous and tribal peoples in independent countries.

27. One current cause for concern was prospecting and mining by foreign and multinational companies on Sami lands, which had increased following Finland's accession to the European Union. On the other hand, membership of the Union had brought benefits, including a place for the Sami Parliament in the European Bureau for Lesser Used Languages, in which the Finnish Roma would also be represented. Moreover, a working party of the Nordic Council of Ministers was to examine the feasibility of concluding a Nordic Sami Convention.

28. The revised Constitution Act also dealt with the right of the Roma to maintain and develop their own language and culture. Steps were being taken to promote book publishing and radio broadcasting in the Roma language. Roma housing conditions were being surveyed in cooperation with the Ministry of the Environment and the Ministry of Social Affairs and Health.

29. Although very few cases of discrimination had been heard in the courts, attitudes towards non-nationals had recently grown more hostile. Two cases - one in Jyväskylä involving discrimination, the other in Joensuu involving assault - had resulted in sentences for racially motivated offences against foreigners - fines in the first case and imprisonment in the second.

30. The Youth Campaign against Racism, Xenophobia, Anti-Semitism and Intolerance, launched on the initiative of the Council of Europe, had been carried out in Finland during 1995; in addition, several Government ministries had allocated funds to the Advisory Board for Refugee and Migrant Affairs for the programme "Towards a tolerant Finland".

31. Mr. YUTZIS (Country Rapporteur) said that he was impressed by the quality of Finland's reporting, especially on efforts to promote the rights of women and children in minority groups and prevent developments leading to racism, racial discrimination and xenophobia, and by the fact that there had been public participation in the preparation of the twelfth period report. He welcomed Finland's declaration under article 14 (1) of the Convention and had listened attentively to the details given in the oral presentation about the revision of the Penal Code.

32. The country's recent problems with racial discrimination were reflected in paragraph 86 of the report. But to uphold the assertion, reported in that paragraph, that acts of violence and vandalism against aliens in Finland were sporadic and unorganized, committed under the influence of alcohol or on a sudden impulse, was to ignore the underlying motivations for such acts. It appeared that some assaults on foreigners had been systematically organized and even filmed, and that the police had had difficulty in dealing with the incidents and in taking preventive action. With regard to the Joensuu case mentioned in the oral presentation, he had received a great deal of information, relating inter alia to police investigations of attacks on Somalis and Bangladeshis and the distribution of inflammatory posters. The incidents in Jyväskylä, where a number of foreigners had allegedly been assaulted, were comparable to the recent attacks against Turks in Rostock, Germany. The police were said to have evidence of the recruitment of young people by violent rightist organizations, but little was apparently being done to check racist attacks by skinheads on the streets of Finland.

33. He expressed concern about the amendment to the law on asylum and immigration, which had entered into force in October 1993 and allowed for the expulsion of refugees from what were known as "safe countries". He sought confirmation of his understanding that expulsions were carried out by the immigration police in the border areas. Representatives of UNHCR in Stockholm maintained that no one should be expelled at the border before benefiting from a period of asylum and that Finland should not be the first European country to adopt such legislation. He requested more information on the apparent discrepancy between the list of countries Finland considered "safe" and the list compiled by the Council of Europe, particularly in so far as it affected asylum-seekers or immigrants from the former Soviet Union, many of whom had been turned back. The Ombudsman had criticized the systematic refusal of asylum, and had called for an alternative system to be introduced. He asked what arguments had been adduced by the authorities in the case, now being heard in appeal, of 50 Somalis expelled in June 1995. The Somalis had come to Finland via Ethiopia and Kenya, which were regarded as "safe countries", and yet there was evidence that Somali refugees had been detained in those countries and even deported back to Somalia.

34. He sought clarification of the 1993 amendments to the law governing residence permits, which appeared to restrict the granting of permits to

persons having some direct family or other connection with Finland and therefore to constitute discrimination against applicants having no such prior connection. He understood that it was the Finnish diplomatic missions outside Finland which made the decisions and that they were not subject to appeal.

35. Although there had undoubtedly been many positive developments regarding the Sami issue, some questions remained. He referred to the problems arising from decentralization measures, mentioned in paragraph 58 of the report. There were two sides to the issue: decentralization was an appropriate tool to create a human rights culture among local authorities and political decision makers, while that culture would in turn support decentralization. On the issue of the use of the Sami language, referred to in paragraph 54, the problem of the lack of resources prompted the comment that, in general, where there was a will there was always a way. Referring to paragraphs 60, 62 and 63 of the report, he felt that the issue of land ownership for minority groups and indigenous communities was one involving not only resources but the personal and cultural identity of the groups and communities concerned. He drew attention to the conflicting interests over land ownership and use, and asked whether the conflict arose with the State or with private enterprises concerned with logging and exploitation of the mineral-rich bedrock, or with both. Those issues should be a matter of serious concern to the Government. On the subject of logging, he cited the extensive damage done to the crucial reindeer pastureland of Angeli, a matter that had been taken up by the Human Rights Committee, and the controversy over extensive tree-felling in the lichen-rich Mirhami area. The issue was not just one of damage to the land but concerned the failure to protect cultural rights. He also wished to know what position would be adopted by the Ministry of Trade and Industry with regard to mineral extraction. The difficulties in implementing the amendment to the Parliament Act concerning Sami participation in decision-making and the measures taken in that regard had been reflected in the delegation's oral presentation, but he could not fail to draw attention to the campaign conducted in a number of localities against the Act and against Sami rights and autonomy.

36. He noted the positive developments in policy and attitudes towards the Romany population, as described, in particular, in paragraphs 15, 71, 72 and 75 of the twelfth report. However, the Roma still faced serious problems. They were frequently stopped and questioned by the police and denied admittance to restaurants, despite fines imposed on proprietors; few Romany children finished school or pursued further studies, making it difficult for them to enter the labour market; and Romanies continued to face difficulties in finding work. In one case, a woman had been refused employment on account of her traditional dress. It was significant that, in the very few cases where the difficulty of instituting legal proceedings had not prevented actions being brought in respect of discrimination, the courts had ruled on access by Romanies to restaurants rather than incitement to discrimination. There was evidence of discrimination in housing, a point raised by the Parliamentary Ombudsman, and the reasons for the lack of teaching materials for Romany language classes needed to be addressed. The Advisory Board for Romany Affairs was to be commended for the strong line it had taken on those issues. However, the Committee was hampered in its assessment of the situation by the lack of statistics concerning the Romany population.

The meeting rose at 6 p.m.