



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

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-second session

SUMMARY RECORD OF THE 1576th MEETING

Held at the Palais des Nations, Geneva,  
on Tuesday, 18 March 2003, at 3 p.m.

Chairman: Mr. DIACONU

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

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Cooperation between the Committee and the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

1. Mr. DOUDOU DIÈNE (Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance) said that one body on its own could not combat discrimination, racism and related intolerance. Since his appointment as Special Rapporteur, he had been advocating coordination and complementarity among the various mechanisms which had been set up to deal with those issues.
2. His mandate was not easy, in particular in the context of the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which had taken place in Durban, South Africa in 2001. He had a “two-fold strategy” for combating discrimination: “legal and political” and “intellectual and ethical”. The “legal and political” strategy was designed to reinforce the international instruments adopted and to ensure their implementation. The “intellectual and ethical” strategy, on the other hand, went to the root of the culture and the mindset behind discrimination.
3. He stressed the importance of having such a two-fold strategy. Legal instruments designed to deal with the consequences of racism often failed to eliminate the underlying discriminatory mentality and embedded reflexes. In dealing with that mentality, questioning deep-seated convictions was, perhaps, one of the greatest challenges. As soon as the international situation deteriorated and major political crises broke out, discriminatory images and mentalities, which denigrated individuals, and whole communities and religions, immediately reappeared.
4. He needed to look at discrimination and related phenomena not in an abstract way but within their social context. Thus, to enable him to make his reports more specific, one or two other rapporteurs should accompany him on his missions. Such complementarity among special rapporteurs was of great importance. At the same time, in order to avoid duplication of effort and to expand his knowledge, he had to take into account the work carried out in the field of racial discrimination by different bodies, and to look in particular at the activities of the Committee on the Elimination of Racial Discrimination, its conclusions and the problems it had identified. Complementarity was vital when drafting, issuing or following up recommendations. He had to avoid making recommendations which contradicted anything the Committee had drafted. His recommendations must enable him to exercise his mandate, while reinforcing the Committee’s work and that of other bodies.
5. He hoped that in its future undertakings, the Committee would go to the roots of discrimination and would take into account the mentality behind it. The invisible features of discrimination were the most powerful ones. In that regard, he once again stressed the need for cooperation among existing mechanisms.

6. Mr. ABOUL-NASR said that many changes had taken place since the drafting of the Convention. For example, in the beginning, western European countries had voted against article 14 of the Convention. Since then, most of them had come to accept it. The Committee was currently cooperating with non-governmental organizations (NGOs). That, too, had not been the case in the beginning. He stressed the importance of looking at the process of change the Committee had gone through and of knowing what was expected of the Committee.

7. Numerous problems remained. For example, although many Governments had accepted article 14 of the Convention, none of them had welcomed complaints lodged by individuals from their countries. Every State which had made the declaration under article 14 had requested the Committee not to accept specific complaints. The Committee had to convince countries that it was not enough to declare acceptance of the article. They must make every effort to treat such complaints with respect.

8. Mr. THIAM believed the causes of discrimination differed even within the same society. Any standard approach was therefore best avoided. Instead, each problem should be dealt with separately. The affirmation of the specificity of individuals and groups lay at the root of discrimination. While one group might be treated with respect, another might be rejected. The basic battle against racism was a cultural one and therefore could only be won through cultural education.

9. Mr. de GOUTTES said that the main challenge was to define the tasks of different mechanisms correctly. He hoped that the Special Rapporteur would take steps to reinforce cooperation with the Committee. He wished to know whether the Special Rapporteur saw the follow-up to the Durban Conference as part of his mission. How did the Special Rapporteur see himself in relation to the Committee and the eminent personalities who would be appointed in the framework of the follow-up to the Durban Conference? What would his role be in the process of cooperation and liaison among the various bodies?

10. The CHAIRMAN said that the Committee worked on State parties' reports and evaluated the progress achieved in each country over a certain period of time. Such information could be of use to the Special Rapporteur. Through its recommendations to States parties, the Committee endeavoured to influence people's mindsets and to educate the population as well as law enforcement officials. He wondered whether new standards on discrimination were necessary and, if so, what new standards might be required. A cautious approach was needed in that respect. The only possible new instrument could be an additional protocol, which might add useful elements to the Convention, but without amending it.

11. Mr. SICILIANOS expressed the Committee's interest in the work of the Special Rapporteur. Cooperation had to be mutual. The Committee had not yet had an opportunity to benefit from cooperation with the Special Rapporteur. Only country rapporteurs were given the opportunity to see his reports. He hoped that in future those reports would be circulated to other members of the Committee as well. How did the Special Rapporteur perceive the possibilities for cooperation between him, the Committee and the follow-up units of various treaty bodies? He agreed with the Chairman that if new standards were to be introduced, they should expand on ways in which action could be taken and avoid calling into question the basis of the Convention.

12. Mr. THORNBERRY asked whether the Special Rapporteur felt that, in his work on discrimination, all the main areas were covered by appropriate international legal standards or whether he believed that there were gaps. Had accelerated globalization and the situation in the world following the events of 11 September 2001 given rise to new issues for the Special Rapporteur to address? Did the Special Rapporteur feel that the Committee's work had had an impact on norms and structures of the States parties to the Convention?

13. Mr. TANG Chengyuan believed that blatant racial discrimination was a rare phenomenon in the modern world. However, discrimination persisted in peoples' thinking. In that regard, he stressed the need to adopt appropriate legislative and other measures. The Committee's work was closely related to that of the Special Rapporteur. For example, he thought that the Committee did not know enough about the system of early warning measures. The Special Rapporteur knew more about the situation in some countries and could enhance the Committee's work by providing additional information.

14. Mr. YUTZIS believed that cooperation between the Committee and the Special Rapporteur with regard to early warning measures would be very productive. Rapid response measures were always taken when it was too late. In order to prevent the reappearance of racism and repercussions for the implementation of the Convention, the Committee and the Special Rapporteur could carry out an in-depth analysis of societies which were in danger of disintegrating as a result of poverty or other factors. He asked the Special Rapporteur to address the issue.

15. Mr. AMIR asked whether, when going on a mission, the Special Rapporteur came to a country with his own concepts and "photographed" the society with his own "camera", or whether he waited for others to tell him what he should "photograph" with their "camera". Did he wait till he was in the field before trying to reach conclusions on the causes of discrimination? The legal process had to take place within the framework of the Convention. It was difficult for the Committee to know the reasons why a State had failed to implement a certain provision. Having gone to the country, having learned how others perceived the situation, and having "photographed" that situation, the Special Rapporteur could assist the Committee by pinpointing those reasons.

16. Mr. DOUDOU DIÈNE (Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance) said that the Committee had a very specific and very significant mandate, which was, however, circumscribed by the Convention. His mandate, on the other hand, was not limited by a single international instrument. He could not deal with racial discrimination in the abstract, but had to refer to the so-called "legal response", founded on the Convention and the Committee's work. His mandate enabled him to choose which regions and countries he wished to visit and which issues he wished to address in his reports. But while he enjoyed a certain freedom of action, he could not work in a vacuum. His recommendations and clarifications could guide the Committee in a certain direction, but those recommendations would be based on the Committee's work. His mandate and that of the Committee should be mutually reinforcing.

17. In response to Mr. Amir's question, he said that a "photograph" was an assessment of objective indicators of discrimination. He had to interpret existing discriminatory practices on

the basis of previous work in that field. However, it was necessary to go beyond the “photograph”, to the so-called “cultural terrain” of discrimination, which differed from place to place. His mission was not only to clarify and describe the situation but also to help people go beyond embedded concepts. Thus the intellectual strategy was also designed to encourage responses from bodies like UNESCO, to study the processes and mechanisms which had created the mentality of discrimination and to ensure that those mechanisms were understood and received appropriate legal treatment.

18. He agreed that there was no need for new instruments: existing ones merely needed to be applied. Hence the importance of the Durban World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which had adopted a holistic approach to combating discrimination. The social, political and economic dimensions could not be separated from the cultural dimension. They were all linked. For example, the Durban Conference had identified the question of African slavery, which had lasted five centuries. The slave system had been justified by reference to an ideology that had legally defined Africans as inferior and thus as chattel. The racist mentality had pervaded all levels of intellectual, educational, cultural and religious life.

19. The context of globalization had created a closed ghetto identity among individuals, ethnic groups, communities and religions. Whenever such a closed identity existed, it resulted in discrimination, xenophobia and intolerance. But globalization also made it possible to globalize responses.

20. He suggested holding a discussion with the Committee in the near future on possible avenues of interaction. It would also be very useful if, before he left on mission to a particular country, he could receive that State party’s report to the Committee and the Committee’s concluding observations. The meeting they were currently holding was the start of cooperation, and he would return to the Committee in August 2003. He proposed having a discussion of his report to the Commission on Human Rights on the situation of Muslim and Arab peoples in various parts of the world in the aftermath of the events of 11 September 2001 (E/CN.4/2003/23), because it concerned a topical issue that would take on increasing importance in the future.

21. The CHAIRMAN said that the secretariat of the Committee and he himself would provide Mr. Doudou Diène with any information he might consider useful for his missions. He also suggested that the Committee devote an entire meeting at the August 2003 session to the Special Rapporteur’s report and to questions of cooperation with the Committee.

22. Mr. DOUDOU DIÈNE (Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance) said that he looked forward to the dialogue with the Committee at that time.

Cooperation between the Committee and the United Nations Educational, Scientific and Cultural Organization (UNESCO)

23. The CHAIRMAN said that UNESCO was another body with which the Committee should strengthen its cooperation. He noted that UNESCO had begun work on a programme on the elimination of racial discrimination.

24. Mr. VOLODIN (Chief, Section on Human Rights and Development Division, United Nations Educational, Scientific and Cultural Organization (UNESCO)) said that UNESCO's Anti-Discrimination Unit had asked him to make a short statement on its behalf, since it was busy preparing for events in connection with the International Day for the Elimination of Racial Discrimination on 21 March, in which it would be taking part for the first time; he asked the secretariat to circulate UNESCO's programme for those events.

25. UNESCO was an anti-discrimination organization. According to its Constitution, one of its main purposes was to further universal respect for human rights and fundamental freedoms without distinction of race, sex, language or religion. UNESCO had consistently fought racial discrimination in all its forms. It had adopted the Convention against Discrimination in Education in 1960, the Declaration on Race and Racial Prejudice in 1978 and the Universal Declaration on the Human Genome and Human Rights in 1997. UNESCO had been active at the Durban Conference, where it had organized several round-table discussions, and it had been specifically cited several times in the Conference's Final Declaration and Programme of Action. Immediately after the Durban Conference, a section on the struggle against racism and racial discrimination had been established in the secretariat. UNESCO had produced the first draft of a strategy paper on follow-up to the Durban Conference; it was hoped that the final version would be completed, taking due account of the Committee's input, by the end of the year. A number of studies had been prepared in 2002-2003 on the following topics: revitalization of normative texts adopted by UNESCO; the special nature of xenophobia compared to other forms of discrimination; affirmative action; combating racism and discrimination in cyberspace; and new forms of discrimination associated with globalization. Further studies would be carried out on new forms of discrimination linked to progress in the new sciences and technologies and on racism, xenophobia and other forms of discrimination in Arab countries.

26. UNESCO had also held consultations in Bangkok, on 2 and 3 December 2002, on heightening awareness of the existence of racism and discrimination in the Asian Pacific and the urgent need to strengthen institutional capacities in the areas of research, education and follow-up in the fight against racism and other forms of discrimination, and in Dakar, from 13 to 15 February 2003, for the African region, on Africa and the scourge of racism, discrimination and xenophobia: vision and strategy for an effective follow-up to the Durban Conference, at which issues had included the need to combat discrimination, especially against persons with AIDS, and the alarming increase in xenophobia on the continent. Another consultation, to take place in Moscow on 20 and 21 March 2003, for the European region, would be for European experts in combating racism, racial discrimination, xenophobia and related intolerance in Europe and would focus on the contribution of the European region to UNESCO's elaboration of its new strategy to fight those phenomena.

27. As part of UNESCO's programme to combat racism and racial discrimination, a teaching kit had been prepared containing three publications, on the art of living in peace, non-violent settlement of conflicts in school and non-violence in education. A meeting of experts had been held in UNESCO in December 2002 on revising school curricula and textbooks to eliminate racial stereotypes and overcome certain mindsets.

28. On 5 February 2003, UNESCO had signed its second memorandum of cooperation with the Office of the United Nations High Commissioner for Human Rights. The first memorandum, signed in 1995, had focused on joint action in preparing the Durban Conference. At the Durban Conference, UNESCO had organized a panel discussion with the Office of the High Commissioner; it had published a book, to which Mr. de Gouttes and Mr. Valencia Rodríguez had contributed, and it had organized an exhibition on UNESCO's work. Unfortunately, the excellent results of the Durban Conference had been overshadowed by the events of 11 September 2001. Under the second memorandum, efforts would be made to follow up the Durban Conference and its Programme of Action. Joint meetings had been held in UNESCO headquarters to prepare a manual to combat racism and foster tolerance. A meeting of experts had taken place recently to discuss practical ways of acting on the Durban Conference and battling racial stereotypes.

29. He looked forward to regular cooperation with the Committee in the future.

30. Mr. SICILIANOS asked whether UNESCO had any information relating to the elimination of racial discrimination disaggregated by country, for example concerning the school curricula of different countries.

31. Mr. de GOUTTES enquired what contacts UNESCO had established with regional organizations active in combating racial discrimination, such as the Council of Europe's European Commission against Racism and Intolerance, which had stressed the importance of education and training in matters of human rights and race relations, and the European Union, which had adopted a directive on combating racism. Had UNESCO done any work on eliminating racial stereotypes in school textbooks?

32. Mr. VALENCIA RODRIGUEZ said that everyone agreed that education lay at the basis of the fight against racial discrimination. Several years previously, the Committee had produced a study on the scope and application of article 7 of the Convention, which had also been made available to UNESCO. Article 7 must be at the centre of cooperation between the Committee and UNESCO; accordingly, UNESCO should provide input on how the Committee was ensuring implementation of article 7 and help with the follow-up to the Committee's concluding observations and recommendations.

33. Mr. PILLAI referred to the Chair on Human Rights and Democracy, an important mechanism which UNESCO had set up in a number of universities and other academic institutions all over the world to promote human rights education. He asked whether UNESCO had assessed the work of that mechanism and whether it might coordinate its efforts with the Committee to address racism-related issues.

34. Mr. ABOUL-NASR asked whether UNESCO was able to reach illiterate people in the Third World to explain to them the need to combat racial discrimination.

35. Mr. SHAHI referred to the need to change people's mindsets about racial discrimination. He asked whether children in the Third World had any exposure to textbooks and courses produced by UNESCO that focused on combating racial discrimination. Did Governments accept UNESCO's recommendations on school curricula? If Governments lacked resources, was there any assistance offered so that children could have such textbooks? If racial discrimination was to be eradicated, a long-term, adequately funded strategy was needed. He asked what UNESCO had achieved in facilitating teaching about human rights in schools in Third World countries.

36. Mr. VOLODIN (Chief, Section on Human Rights and Development Division, UNESCO), responding to questions by Mr. Aboul-Nasr and Mr. Shahi, said that educating illiterate persons in the third world about human rights could best be addressed jointly by the Committee on the Elimination of Racial Discrimination and UNESCO. Since resources were scarce, that could be done through the dissemination of good practices, drawing upon UNESCO's existing network, which included the UNESCO Chairs on Human Rights, Democracy and Peace, established at universities throughout the world, and the UNESCO Associated Schools Project Network, which united some 6,500 schools around the globe. Both programmes had accumulated valuable experience. The UNESCO Chair at the National University of Benin had carried out a campaign using radio broadcasts and video projections to reach village populations without access to books. The Associated Schools Project Network had many years of experience in promoting ideas of tolerance, non-discrimination and human rights.

37. As to Mr. Sicilianos' question concerning the process of monitoring the UNESCO Convention against Discrimination in Education, he would have to postpone his response, as he did not have access to the necessary information. The question of how to make international instruments concerning discrimination truly effective was another question that could best be addressed jointly by UNESCO and the Committee. There were already enough standards; what were needed were more mechanisms for their practical implementation.

38. He would refer Mr. de Gouttes' question regarding the regional contacts established by UNESCO during the Durban World Conference to his colleagues who had attended it. As to the question of eliminating racial stereotypes from school textbooks, that lay outside his domain. His presentation had been based on the information he had with him; he could therefore not respond in greater detail to the Committee members' questions.

39. He agreed with Mr. Valencia Rodríguez that education constituted the basis in the fight against discrimination. He would refer Mr. Valencia Rodríguez' question to his colleagues at headquarters and their response would be transmitted to the Committee through a UNESCO representative, who would attend the next Committee session in August. Essentially, he wished to convey that UNESCO would no longer be working in isolation, but would be available to work with the Committee on a regular basis. He was pleased to see that Mr. Doudou Diène, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, had been present because he had worked at UNESCO, as had his predecessor, Mr. Maurice Glèlè-Ahanhanzo.

40. Mr. AMIR asked whether there was any scope for the sort of mutually beneficial cooperation, in which the Committee would make proposals for ways of working with UNESCO, including with the various partners of its network, such as schools and universities.

41. The CHAIRMAN said that by transmitting to UNESCO the recommendations it made to each State party, the Committee could provide UNESCO with a springboard for addressing the problem of racial discrimination in the areas of concern to it, namely in the educational, scientific and cultural fields.

42. Mr. VOLODIN (Chief, Section on Human Rights and Development Division, UNESCO) said that UNESCO's cooperation would consist of relying upon the Committee's expertise, considering the Committee's recommendations, and sending a representative to Committee meetings during which States parties' reports were being considered. The fact that UNESCO had not for some time participated in the Committee's deliberations was not due to an absence of good will, but rather to a lack of human resources. The new unit that had been established would hopefully correct that.

43. The CHAIRMAN said that a place had already been designated for the UNESCO representative, as well as the International Labour Office representative, at the Committee's meetings. The Committee would welcome the opportunity to exchange views with UNESCO in the future. In the meantime, it would reflect upon the areas in which it might seek UNESCO's assistance and support to the extent that those areas coincided with UNESCO's sphere of activity. He thanked Mr. Volodin for his presentation.

The meeting was suspended at 4.45 p.m. and resumed at 4.55 p.m.

Response by the Committee to the questionnaire submitted by the Special Rapporteur on the rights of non-citizens (CERD/C/62/Misc.17/Rev.2)

44. The CHAIRMAN invited the members of the Committee to consider the Committee's response to the questionnaire submitted by the Special Rapporteur on the rights of non-citizens (CERD/C/62/Misc.17/Rev.2), Mr. David Weissbrodt.

45. Mr. THIAM said he wondered whether the Committee should consider a document that had not yet been translated into other languages. He would like to participate in the discussion, but could not do so properly if only the English version of the document was available.

46. The CHAIRMAN said that the Committee would have to proceed to consider its response without the translated versions if it wished to submit its response before the end of the session.

47. Mr. ABOUL-NASR suggested that the author of the paper should provide the other members of the Committee with an overview of the response that had been formulated, which might facilitate its consideration by the non-English speakers on the Committee.

48. Mr. THIAM said that whether or not the paper had been translated into other languages should not stand in the way of the Committee's consideration of it, even if that required an effort on the part of some members.

49. Mr. ABOUL-NASR said he would not be able to comment on the Committee's response because he had not had time to read the relevant documents.

50. Mr. KJAERUM recalled that the Committee had been instrumental in requesting the Special Rapporteur on the rights of non-citizens, Mr. Weissbrodt, to undertake the study on the status and rights of non-citizens. It was a very comprehensive and instructive study, which he urged the other Committee members to examine carefully. In a letter addressed to the Committee, Mr. Weissbrodt had asked it to reply to three specific questions, which formed the basis for the Committee's response. Although other perspectives might have been raised, he had limited his efforts to addressing the elements relating to the questionnaire.

51. The CHAIRMAN said it should be clarified that the study did not concern persons without citizenship, but rather citizens within States who did not possess the citizenship of the country in which they resided. He invited the Committee to comment upon the response on a question-by-question basis. Regarding the first question, he said it was not sufficient to request that a reference to article 1, paragraph 2 of the Convention should be added. That might give the impression that the Committee expressly did not deal with differences between citizens and non-citizens, which was not true. He proposed that the end of the paragraph should read as follows: "The Committee recalls on this issue its General Recommendation XX (48) on Article 5 (1996)". That would help to clarify the Committee's position.

52. Mr. SICILIANOS said he approved of the response prepared by Mr. Kjaerum and supported the Chairman's proposal. Reference should also be made to some of the Committee's concluding observations of the current session. There were two or three very pertinent references which could be included in order to give Mr. Weissbrodt some additional information on the Committee's practices. Côte d'Ivoire, for example, was a country in which issues relating to non-citizenship had arisen. The Committee's response could perhaps be sent at the end of the week when the Committee had finished adopting its concluding observations.

53. The CHAIRMAN said he agreed with that proposal. The Committee should look at all the concluding observations it had adopted and make references to the specific paragraphs it wished to highlight. He would entrust Mr. Kjaerum and the secretariat with that task. If there were no more comments on question 1, the Committee could go on to consider question 2.

54. Mr. de GOUTTES said that the response prepared by Mr. Kjaerum seemed good but he could not make any proposals because, like Mr. Aboul-Nasr, he had not had the opportunity to read the Special Rapporteur's questionnaire thoroughly.

55. Mr. RESHETOV said that in some Scandinavian countries, which were known for their democratic traditions, non-citizens who had been residents for a specified period were allowed to participate in local elections. He wondered whether, in countries where non-citizens could not participate, even in local elections, that constituted a discriminatory practice.

56. The CHAIRMAN said that that was a question Mr. Kjaerum could answer.

57. Mr. AMIR said he would like Mr. Sicilianos, who knew the Council of Europe well, to confirm whether some elements concerning the rights of minorities as non-residents were contained in the European Conventions. Those might be mentioned in the Committee's response.

58. The CHAIRMAN said that the Committee could not formulate its response based on instruments adopted by the Council of Europe, but should do so on the basis of its own activities. The conventions of the Council of Europe might very well contain provisions that went beyond the Convention on the Elimination of Racial Discrimination, but the Committee nevertheless had to restrict the scope of its response to its own Convention, which most often referred to political rights in relation to citizens. Mr. Reshetov's point referred to the European context in the sense that some countries gave non-citizens the right to participate in local elections and to stand for election in local bodies. Although it could be considered discriminatory, it was generally accepted that only citizens had the right to exercise political rights, with a few exceptions in prescribed circumstances.

59. Mr. RESHETOV said that in some communities, non-citizens made up the majority of the population. If they were not allowed to participate, even in local elections, it would mean that a minority held sway over a majority of the population.

60. Mr. HERNDL questioned whether it was for the Committee to carry out research to answer the questions in the questionnaire, or rather for the Special Rapporteur, who had at his disposal the services of the secretariat. In some cases it would be preferable for the questions formulated by the Special Rapporteur to be answered not by a treaty body, but rather directly by the States. If a reply was adopted by the Committee, it should be made clear that the information it contained was not exhaustive. Should such a reply be sent by the Chairman, by the Committee or by someone else?

61. Mr. SICILIANOS emphasized the need for cooperation between the various human rights bodies. The Committee must reply to a request for information from a Special Rapporteur.

62. Mr. THORNBERRY proposed that the reply should be sent with a covering letter from the Chairman explaining the framework in which it had been prepared.

63. Mr. ABOUL-NASR pointed out that the vast majority of the cases cited in the proposed reply related to European countries. The document should be more balanced.

64. Mr. SHAHI, noting that the draft reply provided only partial information, said that more research was needed before the Committee could reply to the request.

65. Mr. THIAM said that he agreed that the document was somewhat flawed in that it did not cover the situations in countries on all continents, but that it was most important for the Committee to respond positively to the Special Rapporteur's request for a dialogue. The Committee should send the document accompanied by a letter pointing out that it did not provide comprehensive information.

66. Mr. RESHETOV agreed that it would be preferable if the paper covered the situation in countries outside Europe as well. Because the Committee had plans to discuss the rights of non-citizens at length, it was perhaps too early to respond to such a questionnaire. Instead, the Committee could indicate that it planned to discuss the issue, and offer to work with other human rights bodies on it.

67. The CHAIRMAN pointed out that the Special Rapporteur required the information by mid-2003, and that the Committee was unlikely to hold a detailed discussion on the subject before then.

68. Mr. KJAERUM said that the subject was very pertinent to the Committee's work, and that the Committee should reply to the request for information. The paper had been drawn up, as agreed, using examples from the concluding observations of recent sessions. However, for the sake of balance, he was willing to recast it, citing cases from the Committee's concluding observations for other countries, issued at previous sessions.

69. Mr. LINDGREN ALVES proposed that the Chairman should send a short letter stating that the paper had been prepared on the basis of the most recent information, that no Committee member had any objections to its content and that it was an unofficial paper intended to help the Special Rapporteur. The Special Rapporteur had put a number of complex questions to the Committee, and it would be extremely time consuming to respond to them completely. If the Committee chose to enter into such dialogues it should include them as a separate agenda item.

70. Mr. TANG Chengyuan agreed that the Committee should maintain the dialogue with the Special Rapporteur and that it would be a good idea to send a short letter accompanying the reply. It would be preferable to invite the Special Rapporteur to attend a meeting with the Committee members, to hold a face-to-face dialogue and to draw up a paper on the basis of that dialogue and related research.

71. Mr. SICILIANOS said that he felt strongly that the Committee should respond to the request for information. The Chairman should send a letter explaining that the paper contained preliminary information for the use of the Special Rapporteur and that it took into consideration the most recent practices of the Committee, that the Committee wished to continue the dialogue and that it was considering holding a thematic discussion on the subject.

72. The Committee had received the request for information five months earlier. It was regrettable that certain Committee members deemed it appropriate to call into question the preparatory work done by others, without themselves having prepared constructive proposals.

73. Mr. SHAHI endorsed the proposal by Mr. Lindgren Alves. The paper should be modified to include a few more examples from non-European countries.

74. The CHAIRMAN said that he would send a letter accompanying the paper prepared by Mr. Kjaerum, as modified, explaining that it was the Committee's preliminary reply to the Special Rapporteur's letter and questionnaire, expressing the Committee's desire to continue the dialogue and mentioning that the Committee intended to hold a thematic discussion on the subject.

75. It was so decided.

Adoption of a draft opinion of the Committee for the Elimination of Racial Discrimination on the issue of reservations to treaties on human rights (CERD/C/62/Misc.20/Rev.3)

76. The CHAIRMAN invited Committee members to consider the draft opinion, which had been based on a paper previously presented by himself and Mr. Reshetov and which had served as a background document at the World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance. In part 1, the paper before the Committee described the problems related to reservations. In part 2 it established that reservations constituted part of the consent of a State party when it ratified a treaty, while part 3 described the actions that could be taken by a treaty body in respect of reservations. Part 4 advocated an approach by the Committee based on a fruitful dialogue, with a view to convincing States to change or withdraw their reservations when they were inconsistent with the Convention.

77. Mr. VALENCIA RODRIGUEZ noted that the text reflected the current doctrine of international law, in particular the standards of the Vienna Convention on the Law of Treaties. General Comment 24 (52) of the Human Rights Committee made a basic contribution toward the introduction of new standards governing treaties on human rights and was an important step in the progressive development of international law, which was desirable. At the current juncture, however, treaty law had not yet evolved to that extent. He therefore agreed with the positions in the draft document, as they stated that reservations to the Convention must not constitute an exception to the general rules governing the submission and withdrawal of reservations and the filing of objections.

78. Under the Convention, for a reservation to be effectively opposed, two thirds of the States parties must object to it. It was not for the Committee to determine if a reservation was incompatible with the object and purpose of the Convention. However, that did not preclude the Committee from calling upon States parties to consider withdrawing their reservations if, in its opinion, they did not contribute to achieving the basic objective of the Convention, especially in respect of article 4. Such requests were, of course, subject to the sovereign will of the State party concerned.

79. Mr. ABOUL-NASR, while endorsing the views of Mr. Valencia Rodríguez, asked whether after adoption the opinion would be included in the report of the Committee.

80. The CHAIRMAN said the opinion would be submitted to Mr. Alain Pellet, the Special Rapporteur of the International Law Commission on reservations to treaties, who had requested the information in a letter to the Committee.

81. Mr. THORNBERRY noted that there were, broadly speaking, two schools of thought concerning reservations: the “Vienna Convention” school and the “Human Rights Committee” school, and that they were not mutually exclusive. The opinion paper sought a middle ground based on the provisions of article 20, paragraph 2, of the Convention.

82. The ninth meeting of chairpersons of the human rights treaty bodies had endorsed the approach of the Human Rights Committee. The Human Rights Committee heavily emphasized the doctrine of implied powers of treaty bodies to resolve problems related to reservations, whereas the draft opinion paper emphasized, for the Convention, the use by the Committee of dialogue and the existence of article 20, paragraph 2. Was the latter intended as an exclusive method for resolving the question of the admissibility of reservations? Who was best placed to determine whether a reservation inhibited the operation of the Committee; the Committee itself, or the mechanism established under the Convention, which had so far failed to function? The Committee must avoid setting a precedent for any future general recommendation that it might issue on the subject, and should avoid adopting a position that differed extensively from that of the Human Rights Committee. While he generally supported the approach adopted in the paper, he felt it was important to inform the International Law Commission that the Committee had not yet adopted a definitive view.

83. Mr. THIAM emphasized that the Committee’s objective should be to encourage States to ratify the Convention without reservations, or to withdraw them. It should emphasize the importance of dialogue in harmonizing relations between States.

84. The CHAIRMAN said that while the ninth meeting of chairpersons of the human rights treaty bodies had taken the position cited by Mr. Thornberry, there had been no mandate to do so from the Committee, as there were opposing views among the Committee members. In the view of some members, the Committee could not consider that a State party was bound by a provision to which it had issued a reservation. He suggested that the draft opinion should be adopted and sent with a letter from the Chairman.

85. It was so decided.

The meeting rose at 6.05 p.m.