



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

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-seventh session

SUMMARY RECORD OF THE 1724th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 17 August 2005, at 10 a.m.

Chairman: Mr. YUTZIS

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The meeting was called to order at 10.10 a.m.

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

Multiculturalism (continued) (CERD/C/66/Misc.8, CERD/C/67/Misc.5)

1. The CHAIRMAN said that when considering States parties' reports, Committee members often disagreed on the meaning of certain terms, including the term "multiculturalism". The objective of the current meeting was to try and reach a common understanding of that concept. He invited Mr. Lindgren Alves to introduce his working paper on multiculturalism.

2. Mr. LINDGREN ALVES, introducing the working paper (CERD/C/66/Misc.8), said most people agreed that economic globalization should be accompanied by cultural globalization, which should be based on respect for and acceptance of all cultures. Although multiculturalism implied accepting differences, there were various ways of doing so. For example, in the French tradition, differences were respected but never had primacy over above the French Constitution, the aim being to promote integration. In the Anglo-Saxon tradition, differences were perceived as being too fundamental to the individual's identity to be changed or influenced. People were expected to live side by side in the same society but to retain their languages, traditions and cultural values.

3. According to the Convention, establishing equality did not mean treating everybody equally. True equality often required measures of positive discrimination, or affirmative action. An approach that worked in one region of the world could prove harmful in another. The European model for addressing the issue of minorities, namely, formal recognition of minorities, worked in countries such as France, Germany and Italy because they had existed as nations before becoming self-governing political entities or States. In the Russian Federation, national minorities also existed as nations and, in order to show its acceptance of the minority groups living on its territory, the Government had to recognize their right to speak their languages and pursue their religious and cultural practices. However, by applying the European model to Africa or Latin America, the Committee only served to foster fragmentation in countries which had been struggling to create unity. As a result of foreign countries supporting the Brazilian black movement, for example, racial hatred was becoming a problem in Brazil. In Africa, national borders had been created by colonial Powers without regard for communities that had been in place for years. In modern African countries, many ethnic groups had nothing in common or had even been enemies in the past. Was it reasonable or realistic to request the Nigerian Government to recognize all the 250 minority groups which lived on its territory and to provide education in all minority languages? Another example was the case of Tanzania, which was making an enormous effort to ensure that all children received education in English and Kiswahili. It made little sense to insist that education should also be provided in over 120 minority languages.

4. Article 2, paragraph 1 (e), of the Convention stipulated that States parties should encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races. He expressed concern that those who believed cultures could not evolve fostered fundamentalism by, on the one hand, contributing to antagonism towards immigrants and, on the other, making immigrants even more defensive about their own cultural values. Instead of insisting on the sacrosanct nature of immigrants'

culture, the Committee should encourage immigrants to respect the dominant values of the country to which they migrated. In conclusion, he urged other Committee members to be very careful in framing recommendations on that matter.

5. Mr. VALENCIA RODRÍGUEZ said that multiculturalism was essentially a modern term for a phenomenon that had existed since the beginning of time, when wars of expansion had been a fact of life. Conquest and growing trade relationships had set in motion early migratory flows, thus creating the first minority populations. Population movements had also been common in biblical times, when minorities had often automatically become part of the lowest classes in the host country, deprived of all rights, but generally maintaining their own language, religion, customs and traditions. The colonization initiated by the great scientific and geographical discoveries of the sixteenth and seventeenth centuries had also been accompanied by massive population flows. In that case, the newcomers had assumed control over the conquered peoples, driving them to the margins of a new societal order based on the cultural primacy of a minority of conquerors. The contemporary South-North migratory flows resulting from the extreme hardship in many developing countries could not be contained by simply imposing strict border controls, surveillance and policing. Those migrants would doubtlessly become rich countries' new minorities, thus making multiculturalism even more of a contemporary reality.

6. Migrating population groups brought with them their own laws, which were reflected in their traditions, language, customs, folklore and religion. While those cultural values should be respected and welcomed as an element of enrichment by the host society, national legislation and accepted norms of international law must take precedence. However, culture was not a static concept: it was subject to ongoing evolution in accordance with humanity's changing aspirations and needs. That evolution eventually translated into changes in legal norms, and contemporary norms and standards might become obsolete. The notion of multiculturalism thus needed to be seen in the context of a constantly evolving world.

7. Mr. THORNBERRY said that multiculturalism was a demographic reality in most countries. Cultures were systems of meaning through which humans made sense of the world, and they formed the basis for any person's world view, regardless of his origin or degree of awareness of other cultures. Multiculturalism was open to a range of interpretations and was not incompatible with the Committee's general tendency to promote integration. However, integration could also be interpreted in various ways. The Committee's notion of integration, which was seen as conducive to social harmony, was different from the policy of assimilation that had been imposed on indigenous populations around the world. Rather than focusing on the underlying concepts, any realistic assessment of policy-making must be based on substance.

8. Nation-building was a complex and ongoing process and must conform to the principles of human rights and non-discrimination. The Committee's role was to undertake pragmatic assessments of the human rights impact of various models of nation-building. The most successful approach was likely to be based on broad respect for human rights and cultural diversity. If treated with due respect for their rights, minorities could make a positive contribution to stability and nation-building.

9. The Committee should remain firm in its requests for disaggregated population statistics, since such information was crucial to assessing genocide indicators, identifying vulnerability and devising targeted policies.

10. The human condition comprised a multiplicity of cultures. In the context of the contemporary process of globalization, diversity had come under renewed pressure, as illustrated by the continuing decline in the number of languages spoken. Citing Bruce Chatwin's book In Patagonia, he used the example of the Yaghan language, which had been spoken by a population indigenous to Tierra del Fuego, to illustrate that language was a unique way of relating to the world all human beings shared. Based on that understanding, the loss of any language was a matter of regret for all humanity. The Yaghan language had disappeared and many other languages might suffer the same fate. Discussions on discrimination, early warning and early action often concerned peoples threatened with extinction, and the Committee's work was crucial to ensuring that people were given the chance to shape their future according to their own desires. In its recommendations, the Committee should be balanced, positive and non-dogmatic.

11. In view of the perplexity arising from the relationship between the Convention and minority rights, it might be appropriate to hold a general debate on the issue, possibly with a view to drafting a relevant general recommendation.

12. Mr. SICILIANOS said that the Committee's dialogue with States parties over recent years had shown multiculturalism to be a key issue. It was closely related to questions such as linguistic diversity, education in minority languages, and the cultural, religious and historic rights of minorities. The phenomenon of minorities was not exclusive to Europe, but affected States in many parts of the world; the comments made by some African States certainly deserved attention. In the future, the Committee might wish to consider taking a more flexible approach to certain issues. Its general tendency to promote the integration of minorities into mainstream society, such as the recommendation to educate Roma children in ordinary schools, might not always be appropriate. Also, the importance of minority-language teaching might need to be balanced against the economic realities of the State concerned. In its recommendations, the Committee should be sensitive to States' diverse concepts of nation-building and make greater efforts to take account of the specific characteristics of each situation.

13. Mr. CALITZAY said that the thematic discussion on the prevention of genocide and the debate on multiculturalism were complementary. Cultural diversity existed in every country. The notion of multiculturalism must be based on mutual respect and translate into affirmative action measures rather than positive discrimination, which carried negative connotations. While indigenous peoples and minorities often faced similar problems, the two were not synonymous.

14. With reference to Mr. Lindgren Alves' comments concerning racial hatred in Brazil, he said the example of Guatemala showed that the apparent absence of hatred was often due to a lack of relevant complaints mechanisms or indicated a lack of public debate.

15. While he agreed that immigrant communities should abide by the laws of host societies, the relationship between the two must be based on mutual respect. In many cases, laws had been created by the ruling classes with total disregard for the aspirations of segments of the population. That was particularly true of Latin American countries, where indigenous populations had rarely participated in the nation-building process or the drafting of their respective constitutions. In Guatemala, for example, indigenous communities had proposed a large number of amendments in the framework of the 1997 constitutional review process, but none had been retained. It must therefore be borne in mind that constitutions did not necessarily reflect the aspirations and views of all population groups constituting a given society.

16. The example mentioned by Mr. Thornberry illustrated that failure to respect indigenous cultures was a loss to humankind as a whole. In its recommendations, the Committee must therefore place special emphasis on issues relating to multiculturalism.

17. Mr. PILLAI said it was necessary to correct the misconception that the emphasis placed by the Committee on the promotion and protection of different cultures within States parties was a hindrance to the nation-building process. The purpose of the human rights treaty bodies was in fact to ensure that everyone was in a position to enjoy human rights. It was interesting to note that the last famine in India had occurred during colonial rule and that there had not been another since India's independence. That illustrated the fact that nowadays people were more aware of their rights and placed greater demands on the State to respect those rights.

18. Multiculturalism was a term that encompassed respect for cultural diversity and the inclusion of all cultural groups. The elimination of a minority culture through its assimilation into a majority culture, or into the culture of the colonizing country, did not constitute multiculturalism. If viewed from the standpoint of ethnicity, there were many differing examples of multiculturalism. Those included: the African countries, whose boundaries had been drawn artificially by colonizers and included numerous ethnic groups; the Americas and Australia, which had developed multi-ethnic societies based on Western cultural values; and certain large Asian countries, in which a single ethnic identity predominated in extensive areas.

19. India provided an example of a multicultural society that had managed to preserve its diverse cultures and traditions during colonial rule, but was having difficulty doing so today owing to the massive influx of Western culture. Nearly every state in India possessed elements of a distinct culture, which were expressed in language, art, food, dress, etc. Yet, despite their cultural and linguistic diversity, the populations of those states shared the same ethnicity. The varying facets of multiculturalism should be borne in mind when the term was used in the sense of multi-ethnicity.

20. Mr. AVTONOMOV said that the Russian Federation was currently having to deal with the return of ethnic Russians from the former Soviet republics who were finding it difficult to gain acceptance by their compatriots. In many cases, such persons had been living for generations in countries where the predominant culture was very different from that of Russia. That was closely related to the issue of immigrants and the degree to which they should assimilate the culture of their host country. Immigrants should be given the opportunity to preserve important elements of their culture, provided that those elements did not take precedence over the laws and traditions of their host country.

21. He could understand how racial hatred in Brazil might have developed as a result of foreign support for the rights of Brazilians of African descent. Efforts to make things better could sometimes backfire. It was true that when people were first made aware of the issue of racial discrimination, they started looking at each other differently. In Russia, for example, minority groups were referred to as less-numerous population groups, not as minorities, because persons belonging to such groups feared being targeted by discrimination.

22. The different historical and cultural contexts in States parties called for the adoption of an individualized approach when formulating concluding observations. A standardized approach to respect for indigenous peoples could not, for example, be applied both to States in which indigenous peoples were in the majority and to those in which they were in the minority. He was in favour of attaching greater importance to the preservation of minority languages.

23. Mr. de GOUTTES said that multiculturalism followed as a natural consequence of the modern phenomena of migration and globalization. For many countries, multiculturalism was a challenge that involved finding ways for multiple cultures to coexist in harmony. Social cohesion and world peace depended on their success in meeting that challenge. Although the Committee was called upon to recognize the inherent value of each culture, it was nevertheless necessary to impose a limit on that recognition. That limit could be understood as the universality of human rights, which was the need to ensure universal respect for fundamental human rights, regardless of region, culture, tradition, etc. What that meant was that the Committee should not go so far as to support cultures that engaged in practices or customs that ran counter to the core human rights, as defined by the United Nations human rights treaties. He believed that all Committee members could agree on such a limit.

24. Mr. SHAHI recalled that at the previous session he had suggested the Committee should consider adopting a general recommendation on the topic of multiculturalism. A lack of multicultural processes was considered one of the indicators of racial discrimination that could potentially lead to genocide. However, multiculturalism could only be accepted if it did not run counter to the human rights standards set by the international community. The fact that the vast majority of the international community had accepted those standards had resulted in a universal culture - one that took precedence over individual expressions of culture.

25. The Committee must decide to what extent it expected States parties to respect multiculturalism. It was necessary to strike a balance between the impossibility for a single nation to accommodate, respect and promote scores or hundreds of languages, and the loss to humanity when one of those languages died out. More reflection was needed on that matter.

26. He proposed that Mr. Lindgren Alves and Mr. Thornberry should prepare a draft general recommendation, which could subsequently be given deeper consideration by the Committee and ultimately serve as a guide to assessing the periodic reports of States parties.

27. Mr. TANG Chengyuan said that, in examining the reports of States parties, the Committee should not use a single yardstick to measure the situation of multiculturalism in a particular State. It was important to respect the cultural development of each ethnic group in order to achieve a harmonious society.

28. Mr. AMIR said that multiculturalism could not be understood in an absolute sense, but only in terms of its relation to something else. If related to the act of making a judgement, then multiculturalism began to take on meaning. The customs, traditions and works that made up a culture implied that a judgement had been made in order to preserve those particular elements. For example, that English had become a predominant language was not due to the fact that it was more beautiful than other languages; it was because English was the language of the culture of science and technology. The world had judged that culture to be worth preserving and so the language that best reflected it had become internationally dominant.

29. Mr. HERNDL said that while the current debate could continue ad infinitum without reaching a conclusion, it was important to undertake such intellectual reflections on the scope of the Committee's work. Members should consider how to balance the task of promoting implementation of the Convention and core human rights against taking a pragmatic approach to country situations. States parties' implementation of the Convention focused both on negative action, i.e. avoidance of discrimination, and positive action, i.e. affirmative action in favour of specific groups. The Committee should strive in each case to find the logical limitations to such affirmative action. Article 1, paragraph 4, of the Convention introduced the notion of "special measures", thus providing the framework for such action. The Committee had developed a corpus of law that clearly reflected a multicultural approach. It should strive to examine States parties on a case-by-case basis and to take each State's specific characteristics into account.

30. Ms. JANUARY-BARDILL said that while multiculturalism was a useful, descriptive concept that acknowledged differences, it was also a safe concept, given that it was impossible to disagree with the notion of valuing, tolerating and respecting other cultures. It did not have the aggressive, active or political connotations that were often attached to the term "anti-racism". The concept of multiculturalism was therefore limiting in that it took the politics out of race relations - the politics of power, dominance, decision-making and ideologies that informed, for example, control over a country's resources. Multiculturalism did not concern itself with the culture of the dominant group in a society, but always with "the other". Insofar as it reduced culture simply to social and not political issues, multiculturalism became a highly problematic notion. The language of the Convention was an important issue. While the notion of "national unity" was problematic in Africa, States on that continent should be allowed to find their own solutions to their problems. States with a large number of multilingual, multi-ethnic and multiregional societies had to strive to develop unity in a way that respected human rights. In that sense, those States' constitutions were fundamental, in that they considered the rights of individuals rather than simply the rights of groups.

31. Mr. LINDGREN ALVES commended the Committee for agreeing that it should take a pragmatic approach to the situation in each State party and take into consideration the different realities in individual States. He supported the view that the Committee should adopt a political approach, bearing in mind that its recommendations could have the opposite effect to that intended.

32. His source of inspiration on the question of multiculturalism had been his observance of the significantly different approaches taken by members of the Brazilian academy and members of the American academy when considering multiculturalism. A further source of inspiration

had been the writer Peter Fry, who had concluded that one factor in the increase in racial discrimination in Brazil had been the influence of the international organizations, which had adopted the vision of multiculturalism that prevailed in the United States and the United Kingdom.

33. The CHAIRMAN said that the Bureau would ensure that the debate on multiculturalism would continue. He welcomed the proposal to hold similar debates on other concepts that were fundamental to the work of the Committee.

Draft general recommendation on the prevention of racial discrimination in the administration and functioning of the criminal justice system (CERD/C/GC/31/Rev.3)

34. The CHAIRMAN invited the Committee to consider the most recent version of the draft general recommendation (CERD/C/GC/31/Rev.3) dated 17 August 2005.

35. Mr. de GOUTTES (Rapporteur for the draft) said that the text currently before the Committee included all the amendments proposed by members, and a number of minor editing corrections suggested by Mr. Thornberry. He thanked Mr. Cali Tzay for alerting the Committee to the fact that the English term “indigenous” should be rendered in Spanish as “indígena” and not “autóctona”, as it had been in the previous version of the text.

36. Mr. SICILIANOS proposed that the Committee should adopt the draft by consensus.

37. Mr. BOYD proposed that, in Section I-1. A, paragraph 7, the word “proportion” should be replaced by either “representation” or “presence”, given that in the United States the word “proportion” could be interpreted as being synonymous with the term “quota”, which was not the idea the Committee wished to convey.

38. The CHAIRMAN said that, if there was no objection, he took it that the Committee wished to adopt the text of the draft general recommendation, as amended by Mr. Boyd.

39. It was so decided.

40. Mr. AMIR proposed that the general recommendation should be sent to all States parties.

41. The CHAIRMAN commended Mr. de Gouttes, the Committee as a whole, and the NGOs and other organizations that had participated in the drafting of the general recommendation, which would provide useful guidance in the future.

42. Mr. LINDGREN ALVES asked whether, given the importance and relevance of the general recommendation, it would be possible to disseminate it more effectively than had been the case in the past. He proposed that it should be published as a separate document and distributed at the forthcoming General Assembly, and that it should be sent to all States parties with an introductory letter from the Chairman of the Committee.

43. Mr. THORNBERRY said that it would be useful for the Committee to publish a booklet containing the text of the Convention and all existing general recommendations.

44. Mr. HERNDL suggested that if such a booklet was published, it should include a selection of the most relevant general recommendations.

45. Mr. de GOUTTES thanked all the Committee members and NGOs that had contributed to the difficult task of preparing a general recommendation which was relevant to all States parties' criminal justice systems. The final document would be of interest to Governments, to those who worked in the justice systems and to teachers. He called on NGOs, particularly the Anti-Racism Information Service (ARIS), to help ensure the widest possible dissemination of the text.

46. The CHAIRMAN observed that the general recommendation would also be published on the Committee's website.

The meeting rose at 1.05 p.m.