



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

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Committee on the Elimination of Racial Discrimination
Eighty-first session

Summary record (partial)* of the 2166th meeting

Held at the Palais Wilson, Geneva, on Monday, 6 August 2012, at 10 a.m.

Chairperson: Mr. Avtonomov

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 10.15 a.m.

Opening of the session

1. **The Chairperson** declared the eighty-first session of the Committee open.

Adoption of the agenda

2. *The agenda was adopted.*

Opening address by the Director of the Human Rights Treaties Division

3. **Mr. Salama** (Director, Human Rights Treaties Division) welcomed Ms. January-Bardill, who had been elected to membership of the Committee in November 2011 but had been unable to attend the previous session. Ms. January-Bardill had already served as a member of the Committee from 2000 to 2008.

4. After almost three years of consultations among treaty body experts, States parties, national human rights institutions, civil society organizations and United Nations entities, the High Commissioner for Human Rights had released her report on the treaty body strengthening process (A/66/860) in June 2012. The report analysed the various proposals submitted, including the Committee's proposal to establish a joint working group on communications. Another key proposal concerned the establishment of a comprehensive reporting calendar that ensured strict compliance with human rights treaties and equal treatment for all States parties. It was inspired by the success achieved to date by the Universal Periodic Review reporting procedure. Other aims included: enhancement of the accessibility and visibility of the treaty body system by means of webcasting of public meetings; a simplified and focused reporting procedure to assist States parties in meeting their reporting obligations; conversion of the reporting procedure into a process of national consultation and self-assessment involving civil society; and alignment of treaty body working methods. The report also addressed the issue of enhancement of the independence and expertise of treaty body experts.

5. A number of points raised in the Dublin II Outcome Document had not been reflected in the High Commissioner's report, such as the idea of term limits for treaty body members. The High Commissioner had considered that continuity of membership was important and that the final decision rested with States parties. The proposal to convene treaty body sessions in different regions had also been omitted because the resulting increase in costs might prove politically unwise. He noted in that connection that the proposed comprehensive reporting calendar would entail almost a doubling of costs. Some States had suggested that costs could be reduced by extending the reporting cycle to seven or more years. The co-facilitators of the General Assembly intergovernmental process had requested the High Commissioner's Office (OHCHR) to envisage additional cost-saving measures.

6. The first session of the intergovernmental working group held at United Nations Headquarters in mid-July 2012 had been highly successful. The co-facilitators had invited the Chair and Vice-Chair of the Meeting of chairpersons of human rights treaty bodies to attend the session. The twenty-fourth annual Meeting of chairpersons, which had been held in Addis Ababa, Ethiopia, from 25 to 29 June 2012, had discussed the High Commissioner's report and endorsed the vision it contained. It had also recommended that each treaty body should review the report from its own perspective and start to implement parts of it forthwith, since not all recommendations, such as those concerning working methods, required the approval of the intergovernmental process. Following the discussion of the report, the chairpersons had held a videoconference with the two co-facilitators of the General Assembly. The co-facilitators had frankly transmitted States' criticisms, such as

allegations that many treaty body experts were not impartial, that concluding observations were sometimes unrelated to the dialogue, and that it was unclear whether the chairpersons really represented their treaty bodies.

7. In her report the High Commissioner had emphasized the multi-stakeholder nature of the treaty body system. The three basic fields of competence of States were resourcing, elections and implementation, while those of treaty bodies were working methods, rules of procedure and findings. Effective action by the treaty bodies to improve the system would defeat the arguments advanced by some States, for instance allegations of poor time management by the treaty bodies, and of the scheduling of unmandated activities such as follow-up to concluding observations or the drafting of general comments.

8. The Meeting of chairpersons in Addis Ababa had held a fruitful dialogue with African human rights mechanisms. Moreover, although the Meeting had formulated and endorsed various conclusions, each treaty body was free to discuss the outcomes and to amend them from its own perspective. For instance, the Meeting had endorsed guidelines on the independence and impartiality of members of the human rights treaty bodies (the Addis Ababa guidelines). He stressed that the guidelines in no way affected States' capacity to nominate treaty body members. At the same time, the endorsement by the treaty bodies of such guidelines implicitly undermined the arguments of certain States that had been calling for a code of conduct.

9. States had expressed different views about the Committee's proposal to establish a joint working group on communications. He felt that, even if there was as yet no perceptible conflict of jurisprudence between treaty bodies, steps should be taken to avert the risk. However, each treaty body should be free to decide on its position. The question of confidentiality also arose in the case of treaty body members from States parties which had not ratified all provisions or instruments concerning individual communications.

10. The co-facilitators of the intergovernmental process would probably propose a procedural resolution for adoption by the General Assembly providing for a renewal of the mandates of the working group and the co-facilitators for one year. The Chair and Vice-Chair of the Meeting of chairpersons would also be invited to attend future sessions of the group.

11. The Committee had scheduled a day of thematic discussion on racist hate speech with the aim of enhancing understanding of the causes and consequences of racist hate speech and identifying ways of mobilizing the resources of the Convention to combat it. Noting that OHCHR had organized a series of regional workshops on incitement to national, racial or religious hatred, he said that any advice that the Committee could offer to OHCHR on future action to address the complex issue of hate speech would be very welcome.

12. **The Chairperson** said that his position when attending Meetings of chairpersons of human rights treaty bodies was not that the Committee should follow his lead but that he should follow the Committee's advice.

13. The Committee intended to discuss the High Commissioner's report on the treaty body strengthening process and the Addis Ababa guidelines during the second week of its session. It would also discuss its working methods in the light of the guidelines.

14. **Mr. Lahiri** noted that there had been some 20 meetings and consultations on the strengthening of the treaty bodies since 2009 and that there seemed to be a general sense of satisfaction with the achievements to date. However, he recalled, as someone who had previously served as a delegation member, the discomfort or even alarm felt by States on hearing references to matters such as the need for consistency of jurisprudence or for focused yet high-quality reporting. A question that should therefore be borne in mind was

whether the time, effort and resources spent on harmonization and coordination resulted in any meaningful improvements. The High Commissioner's work on the matter had been well-nigh completed and further consultations might not necessarily yield the desired results or constitute fruitful expenditure of time and effort.

15. He also had reservations about the adoption of a code of conduct, since it was only a short step from there to the question of eligibility, which fell strictly within the field of competence of States parties.

16. **Mr. de Gouttes** inquired about the nature of the main objections of certain committees and States to the idea of a joint working group on communications. He also asked whether the confidentiality issue might lead to the condition that only experts from States having accepted existing individual communications procedures could become members of the working group. It would not be advisable to head down the dangerous path of treaty review.

17. **Mr. Amir** said that follow-up was an essential treaty body activity, and it was important not to become mired in routine and rhetoric. He suggested the creation within OHCHR of a follow-up coordinator responsible for verifying compliance with the recommendations made by the various committees. He pointed out that racist hate speech was sometimes allowed in the name of freedom of expression, and said that the discrepancy should be discussed and clarified.

18. **Ms. Crickley** said that the treaty body strengthening process had passed the point of no return; therefore, it was a matter of the Committee helping to shape the process moving forward. For that reason, it was important to hold the relevant discussion as planned, in order to provide a collective opinion for consideration by the Meeting of chairpersons of human rights treaty bodies.

19. **Mr. Salama** (Director, Human Rights Treaties Division) said that there were two types of follow-up: first, the activities provided for under each committee's procedures and, second, the follow-up inherent in the idea of a comprehensive reporting calendar. The former were facing time and resource constraints as well as the legitimate objections of States that follow-up was not in the remit of the committees, whereas follow-up would occur naturally if the periodicity of reporting could be established. The weakness of the treaty body system stemmed from the fact that there was no integrated representation among the committees, leaving the High Commissioner's Office to try and promote their ideas through the Meetings of chairpersons. The treaty body system faced the two crucial concerns of inadequate resources and duplication of work, which threatened the impact of the committees' activities. In addition, the system suffered from a high degree of non-compliance which seriously undermined it. Committee members had two options: either to act on the points brought out by the strengthening process or to make alternative suggestions. The future of the treaty body system was in the members' hands. Mr. de Gouttes' observations about membership in the proposed joint working group on communications should be added to the debate. Paradoxically, the objections to the working group came essentially from States that had not ratified any of the optional protocols.

20. **Mr. Lindgren Alves** asked what were the next steps foreseen for a one-year extension of the treaty body strengthening process.

21. **Mr. Salama** (Director, Human Rights Treaties Division) said that the final decision as to whether or not to extend the process would be taken in December 2012 and, in that event, a series of intergovernmental discussions were planned in which the Chair and Vice-Chair of the Meeting of chairpersons would take part. In that connection, it would be useful for the members of the Committee to consider the High Commissioner's report and the extent of its achievability and to empower its Chairperson to speak in the Committee's

name before the Meeting of chairpersons. Although each treaty body was legally distinct, there was no justification for them to function in 10 different ways to achieve similar goals. Some States took the view that the treaty body strengthening process had been unduly dominated by independent experts, non-governmental organizations and national human rights institutions, that it was likely to yield solutions that went beyond the remit of treaty bodies and that OHCHR was playing too active a role in the process. Currently at stake was the considerable imbalance between the politics of human rights and the objective findings on the ground. The Addis Ababa guidelines did not address eligibility, which remained the exclusive sovereign prerogative of States. OHCHR wanted the treaty bodies to be self-regulating and looked to them to implement a policy and process to that end.

Solemn declaration by a new member of the Committee

22. **Ms. January-Bardill** made the solemn declaration provided for under rule 14 of the Committee's rules of procedure.

The discussion covered in the summary record ended at 11.25 a.m.