



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

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-ninth session

SUMMARY RECORD OF THE 1783rd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 17 August 2006, at 10 a.m.

Chairperson: Mr. de GOUTTES

CONTENTS

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

Draft concluding observations concerning the initial periodic report of Oman (continued)

Draft concluding observations concerning the sixteenth to eighteenth periodic reports of
Mongolia

Draft concluding observations concerning the fifteenth and sixteenth periodic reports of
Yemen

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The meeting was called to order at 10.25 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Draft concluding observations concerning the initial periodic report of Oman (CERD/C/OMN/CO/1) (continued)

Paragraphs 4 and 5

1. Paragraphs 4 and 5 were adopted.

Paragraph 6

2. Mr. ABOUL-NASR expressed doubt as to whether it was for the Committee to comment on States parties' accession to international instruments other than the Convention.
3. The CHAIRPERSON said that the Committee had repeatedly voiced its concern over the double discrimination confronting women of colour; the reference to the Convention on the Elimination of All Forms of Discrimination against Women seemed justified on those grounds.
4. Paragraph 6 was adopted.

Paragraph 7

5. Mr. THORNBERRY proposed deleting the word "gender".
6. Paragraph 7, as amended, was adopted.

Paragraphs 8 to 15

7. Paragraphs 8 to 15 were adopted.

Paragraph 16

8. Mr. ABOUL-NASR said that he disagreed with the notion that citizens and non-citizens should enjoy the same rights in every regard.
9. Mr. SICILIANOS said that international law established clear limits to the exercise of public rights by non-citizens. By specifying that those rights should be enjoyed "to the extent recognized under international law", paragraph 16 implied that equality of rights did not apply to all areas of public life.
10. Mr. PILLAI drew attention to possible inconsistencies between paragraph 8, which mentioned the equality of all workers, and paragraph 16, which introduced the notion of differential treatment with respect to the rights of citizens and non-citizens.
11. Mr. THORNBERRY pointed out that paragraph 8 specifically referred to the Omani Labour Code, whereas distinctions between citizens and non-citizens in international law typically concerned political participation.

12. Mr. SICILIANOS proposed inserting the words “as appropriate” after “revise its legislation” to clarify that equality of rights for non-citizens applied only to limited aspects of public life, which might accommodate Mr. Aboul-Nasr’s concern.

13. The CHAIRPERSON, supported by Mr. YUTZIS, said that that understanding was implicit in the current version of the text.

14. Paragraph 16 was adopted.

Paragraph 17

15. Paragraph 17 was adopted.

Paragraph 18

16. Mr. THORNBERRY said that the phrase “where registration under the father’s nationality is not possible” was superfluous and should be deleted.

17. Paragraph 18, as amended, was adopted.

Paragraph 19

18. Paragraph 19 was adopted.

Paragraph 20

19. The CHAIRPERSON suggested replacing the word “regrets” by “notes”.

20. Paragraph 20, as amended, was adopted.

Paragraphs 21 to 24

21. Paragraphs 21 to 24 were adopted.

Paragraph 25

22. Mr. ABOUL-NASR commented that he saw little merit in making reports available to the public at the time of their submission; at that stage, it was too late for NGOs and other stakeholders to submit comments to the Committee.

23. Paragraph 25 was adopted.

Paragraph 26

24. Paragraph 26 was adopted.

Paragraph 27

25. Mr. VALENCIA RODRIGUEZ, supported by Mr. SHAHI and Mr. TANG Chengyuan, said that the issue of equality between citizens and non-citizens in the exercise of certain public rights addressed in paragraph 16 was controversial. Implementation of the Committee's recommendations would take time and the reference to that paragraph should be deleted.

26. Mr. YUTZIS disagreed. Equality of rights for non-citizens, within the scope of international law, was paramount and the reference should be retained.

27. Mr. AVTONOMOV (Country Rapporteur) said that he, too, had doubts about the wisdom of requesting expeditious follow-up in respect of paragraph 16. The procedures required for the amendment of legislation that had the status of constitutional law were extremely complex. Requesting information on the implementation of the Committee's recommendations within one year seemed unreasonable, especially considering that the State party's next periodic report was due as early as January 2008.

28. Mr. KJAERUM, supported by Mr. YUTZIS, said that it would nevertheless be useful to obtain information on steps taken by the State party, without necessarily requesting prompt implementation of the recommendations.

29. Mr. YUTZIS further suggested that the Committee might wish to hold a general discussion on the political rights of non-citizens in order to avoid debate each time the issue arose in the context of adopting concluding observations.

30. The CHAIRPERSON, supporting that proposal, took it that the Committee wished to delete the reference to paragraph 16.

31. Paragraph 27, as amended, was adopted, subject to editorial amendments.

Paragraph 28

32. Paragraph 28 was adopted.

33. The CHAIRPERSON invited the Committee to adopt the concluding observations as a whole.

34. Mr. AMIR recalled the debate the previous day on paragraph 3. The original text had read: "... a high-level, competent delegation" but, after considerable discussion, the word "competent" had been deleted. In his opinion, the word "competent" meant "capable" and "authorized": surely the Vice-President of the Supreme Court of Oman was both of those things? He wished it to be placed on record that he did not support the deletion of the term.

35. The CHAIRPERSON hoped that the term "high-level", which had been retained, would be sufficient to convey Mr. Amir's views.

36. Mr. YUTZIS noted that the term "competent" sometimes had pejorative overtones.

37. The draft concluding observations concerning the initial periodic report of Oman as a whole, as amended, were adopted.

Draft concluding observations concerning the sixteenth to eighteenth periodic reports of Mongolia (CERD/C/MNG/CO/18)

38. Mr. TANG Chengyuan (Country Rapporteur) said that he had revised his original draft taking into account comments from members, although he had unfortunately not had time to incorporate them all.

Paragraphs 1 to 6

39. Paragraphs 1 to 6 were adopted.

Paragraph 7

40. Replying to a question from Mr. ABOUL-NASR about the phrase “unfavourably comparing religions”, Mr. TANG Chengyuan (Country Rapporteur) said that the phrase referred to statements alleging that one religion was better than another.

41. Ms. NAKAJO (Secretariat) said that the phrase had been taken verbatim from the State party report.

42. Paragraph 7 was adopted.

Paragraphs 8 to 11

43. Paragraphs 8 to 11 were adopted.

Paragraph 12

44. Mr. ABOUL-NASR noted that some concluding observations called upon the State party to adopt the definition of racial discrimination laid down in the Convention and some did not. Perhaps the Committee should decide on a consistent policy.

45. The CHAIRPERSON said that the recommendation depended on the legal system of the State party.

46. Mr. TANG Chengyuan (Country Rapporteur) said that the concluding observations called upon Mongolia to adopt a specific definition of racial discrimination, which would then be available, for example, for the interpretation of the Penal Code.

47. Paragraph 12 was adopted.

Paragraph 13

48. Replying to a question from Mr. SHAHI, Mr. TANG Chengyuan (Country Rapporteur) said that Mongolia limited the number of non-citizens who were allowed to live in the country,

and indeed specified different numbers for different countries. However, the issue was a sensitive one, relating to national sovereignty and security, so the recommendation had deliberately been left flexible.

49. Paragraph 13 was adopted.

Paragraph 14

50. Mr. THORNBERRY (Rapporteur) suggested adding the phrase “on racial discrimination” in the first subparagraph, to read: “ ... legislation and regulations on racial discrimination in the civil and administrative fields ... ”.

51. Paragraph 14, as amended, was adopted.

Paragraph 15

52. Replying to a question from Mr. ABOUL-NASR, Mr. TANG Chengyuan (Country Rapporteur) confirmed that, while the first subparagraph referred to the representation of ethnic minorities in parliament, national and local government, the judiciary and the police, the actual recommendation, in the second subparagraph, referred only to the police.

53. Paragraph 15 was adopted.

Paragraphs 16 to 18

54. Paragraphs 16 to 18 were adopted.

Paragraph 19

55. Mr. KJAERUM pointed out that the recommendation requested the State party to respond in its next periodic report, but, in paragraph 28, the Committee requested a response within one year, pursuant to paragraph 1 of rule 65 of its rules of procedure. He suggested the words “and include the results of the study in the next periodic report” be deleted.

56. Paragraph 19, as amended, was adopted.

Paragraph 20

57. Mr. ABOUL-NASR wondered if, in the recommendation part, the Committee was being too demanding by asking that the State party “ensure” that non-citizens were granted the right to employment in the civil service.

58. The CHAIRPERSON pointed out that the Committee did exclude some posts that might be of a more sensitive nature.

59. Mr. TANG Chengyuan (Country Rapporteur) recalled that foreign workers who had been granted a visa on the basis of a work contract were expected to finish that contract and were not allowed to seek other employment during that time.

60. Mr. ANTONOMOV agreed with Mr. Aboul-Nasr that the use of the word “ensure” was going too far. He suggested asking the State party what positions non-citizens might be eligible for. Some States prohibited non-citizens from employment in even the most minor positions, which had a negative effect on the employment situation of certain categories of persons.
61. Mr. PILLAI said it would be preferable to seek additional information from the State party on the actual employment situation of non-citizens with regard to the civil service, to be provided in the next periodic report. The Committee could decide at that time whether or not there were grounds for concern.
62. Mr. YUTZIS agreed the State party should provide further information and wondered whether the text should refer to the civil service or more generally to public services. He suggested the word “ensure” be replaced with “make it possible”.
63. Mr. PILLAI stressed the need to take into account the situation in the country and pointed out that other countries, including at least one European country, likewise imposed restrictions on the employment rights of non-citizens or gave priority to employing citizens.
64. Mr. TANG Chengyuan (Country Rapporteur) said the State party’s domestic law specified only that non-citizens could not take full-time employment with the civil service in Mongolia, so there did seem to be some flexibility. He also thought it understandable that citizens should have the right to be considered first for employment with the civil service.
65. Mr. LINDGREN ALVES suggested that, in the second sentence of the recommendation part, deleting the words “in the civil service” would address the Committee’s concerns.
66. Mr. KJAERUM pointed out that the concern and recommendation parts taken together were very balanced, especially given that the recommendation made an exception for positions of a sensitive nature. He agreed that the Committee could ask for further information but pointed out that it was quite appropriate for the Committee, as it had done in the past, to address what it perceived as a problem with a State party’s legal regime without knowing the full extent of the problem. The recommendation should also invite the State party to review its legislation in the light of the Committee’s general recommendation XXX on non-citizens.
67. Mr. THORNBERRY said “civil service” could be taken to mean employees of the Government in the narrow sense; it might be preferable to refer to “public service”, which was more general. In States where the public sector was a major employer, those excluded from employment in that sector would be at a real disadvantage. He suggested that the second sentence of the recommendation part be deleted and replaced with “The Committee seeks clarification of the law and practice permitting the employment of non-citizens in public service in the light of the Committee’s general recommendation XXX on non-citizens.”
68. The CHAIRPERSON said Mr. Thornberry’s amendment seemed to take into account the views expressed by the Committee.
69. Paragraph 20, as amended, was adopted.

Paragraph 21

70. Mr. ABOUL-NASR wondered whether the Kazakh population all spoke the same language.

71. Mr. TANG Chengyuan (Country Rapporteur) said that there were many ethnic and linguistic groups in Mongolia; the Kazakhs had been mentioned only as an example.

72. Mr. ANTONOMOV said that the Kazakhs were a nomadic people and that, although there were dialects of the Kazakh language, Kazakhs from Mongolia, the Russian Federation and Kazakhstan basically spoke the same language.

73. Mr. THORNBERRY suggested that the word “adequate” should be inserted following “provided with” in the last line of the concern part.

74. Paragraph 21, as amended, was adopted.

Paragraphs 22 to 27

75. Paragraphs 22 to 27 were adopted.

Paragraph 28

76. Mr. TANG Chengyuan (Country Rapporteur) explained that paragraphs 19 and 20 dealt with the Committee’s main concerns, the rights of ethnic groups and the employment rights of non-citizens. Information should therefore be provided on a priority basis.

77. Paragraph 28 was adopted.

Paragraph 29

78. Paragraph 29 was adopted.

79. Mr. AMIR wished to stress the importance of paragraph 20. Few States granted non-citizens equal employment rights with citizens, especially with regard to public services. That amounted to discrimination against non-citizens and disproportionately affected minority groups. The right to work was the fundamental building block for a regime of full equality for citizens and non-citizens. A paragraph similar to paragraph 20 should be included in the Committee’s concluding observations for all States parties with a view to establishing the principle of the right to work and eliminating the exclusion of minorities. That would also assist those who felt their rights had been violated and sought redress pursuant to article 14 of the Convention.

80. Mr. PILLAI, referring to paragraph 29, recalled Mr. Bossuyt’s procedure for submission of reports, according to which, in cases where the period between the date of the consideration of the most recent periodic report and the scheduled date for submission of the following

periodic report was less than two years, the Committee allowed the State party to submit two periodic reports together. But since Mongolia's report had been considered in August 2006 and its next report was due in September 2008, it might not be appropriate to postpone submission to September 2010.

81. Mr. AVTONOMOV said he supported Mr. Pillai's proposal that the next periodic report should be submitted in September 2008, since the period provided for in the Convention was two years. In his view it should not pose a problem for Mongolia to prepare another report within that time frame.

82. Mr. TANG Chengyuan (Country Rapporteur), supported by Mr. AMIR, said that the preparation of reports was very difficult for States parties such as Mongolia, and that requesting another report within two years might serve only to discourage the State, to the extent that it might not submit a report at all, which was not conducive to encouraging dialogue between the Committee and the States parties. The Committee should take the particular circumstances of each State into account.

83. The CHAIRPERSON pointed out that there was a major discrepancy between the dates set for Oman - January 2008 - and South Africa - January 2010. There was a need to harmonize the procedure so that there was not such a difference in the treatment of States parties.

84. Ms. PROUVEZ (Secretary of the Committee) confirmed that the amendment introduced by Mr. Bossuyt provided that if the next report was due less than two years after the session during which a report had been considered, the next two reports could be combined. The difficulty was that in cases where more than two reports were overdue, then in order to comply with the Bossuyt amendment three reports would need to be combined. In the case of Mongolia, since September 2008 was more than two years after the end of the current session, the Committee could decide to request the submission of the nineteenth and twentieth reports in 2008. The reason why the Secretariat and the country rapporteurs had discussed the possibility of combining three reports, thereby postponing the submission of the next report until 2010, was because the Committee had a follow-up procedure under which information was requested to be submitted within one year, and it was thought that there might not be enough time between the submission of the follow-up information and the submission of the next comprehensive report. However, since States parties did not usually comply exactly with the reporting deadline, the Committee ran the risk that if it requested the new report in 2010, it might not receive the report until much later.

85. The CHAIRPERSON said that his concern was that there should not be too much disparity between countries, and that States parties should not be overburdened by the Committee's requests for information within one year and the submission of the full report.

86. Mr. AMIR said that the Committee should be realistic and pragmatic in its approach. Setting strict deadlines would only serve to increase the already high number of non-reporting States, and the Committee should therefore be flexible and give States parties sufficient time according to their capacities.

87. The CHAIRPERSON suggested that the various country rapporteurs should meet to harmonize the final paragraph for each set of concluding observations, including those already

adopted. The case of Oman was a particular problem, as the date had been set at January 2008 and follow-up information within one year had also been requested. It was necessary to adopt a uniform solution to ensure no discrimination among States, as it was clear that the same criteria had not been applied in all cases.

88. Mr. SICILIANOS recalled that the date for submission of reports was usually set automatically by the Secretariat. Moving away from that approach would be too time-consuming and would cause major difficulties. While he understood Mr. Amir and Mr. Tang Chengyuan's concerns, in practice the Government would simply submit its report when it was ready.

89. Mr. ABOUL-NASR, supported by Mr. TANG Chengyuan, said that the issue should be decided by the Chairperson and the Secretariat, and it was not necessary to debate the matter in plenary.

90. The draft concluding observations concerning the sixteenth to eighteenth periodic reports of Mongolia as a whole, as amended and pending a decision on paragraph 29, were adopted.

Draft concluding observations concerning the fifteenth and sixteenth periodic reports of Yemen (CERD/C/YEM/CO/16)

Paragraph 1

91. Paragraph 1 was adopted.

Paragraph 2

92. Mr. LINDGREN ALVES said that it appeared inconsistent to criticize Yemen's report, but not to voice similar criticism in the concluding observations for Oman. He therefore suggested deleting the second sentence.

93. Mr. AVTONOMOV pointed out that paragraph 4 of the concluding observations concerning Oman did contain criticism of the report, and that there was therefore no great difference of treatment between the two States parties.

94. Mr. KJAERUM said that the criticism was in the correct place in the concluding observations concerning Yemen, and if there was any inconsistency, it was due to the fact that the criticism concerning Oman should also have been included in the introduction, as was usual practice.

95. Mr. LINDGREN ALVES said that he had no objection to retaining the sentence, but it seemed unusual to criticize a country which reported regularly, had provided good explanations and appeared to have satisfactory practices.

96. Mr. KJAERUM said that the criticism was balanced by paragraph 7, which commended the very points raised by Mr. Lindgren Alves. The Committee should highlight when reports did not fully comply with the guidelines.

97. Paragraph 2 was adopted.

Paragraph 3

98. Paragraph 3 was adopted.

Paragraph 4

99. Mr. THORNBERRY proposed replacing the word “continuous” with “continuing”.

100. Ms. JANUARY-BARDILL suggested that the “awareness-raising” should be qualified by adding “on racial discrimination”.

101. Paragraph 4, as amended, was adopted.

Paragraphs 5 and 6

102. Paragraphs 5 and 6 were adopted.

Paragraph 7

103. Mr. AVTONOMOV said that the phrase “increasing regularity” seemed peculiar. He wondered whether it was in fact necessary to commend the State party on the regularity of the submission of its reports, as surely that was simply compliance with an obligation arising from ratification of the Convention. Perhaps that point could be moved to the introduction if it was deemed necessary.

104. Mr. THORNBERRY agreed that the word “increasing” should be deleted. He also proposed deleting the reference to other instruments and rewording the sentence to read “in compliance with the requirements of the Convention”.

105. Paragraph 7, as amended, was adopted.

The meeting rose at 1.05 p.m.