



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

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-sixth session

SUMMARY RECORD OF THE 1695th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 8 March 2005, at 3 p.m.

Chairman: Mr. YUTZIS

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

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

Review of the implementation of the Convention on States parties whose reports are seriously overdue

Papua New Guinea

1. Ms. DAH (Country Rapporteur) said that the Committee had had no contact with Papua New Guinea since it had considered the State party's initial report (CERD/C/101/Add.4) in 1984; it was awaiting submission of the second to twelfth periodic reports. She recalled that Papua New Guinea had been the subject of the Committee's review procedure in 1992, 1993 and 2003 and of its early warning procedure in 1994, 1995, 1997, 1998 and 2002. Numerous decisions had been adopted and communicated to the State party, but without response.

2. The context of the State party's unusually long silence was that four years after the Committee's consideration of its initial report it had faced an armed rebellion by the Bougainville Revolutionary Army. The conflict had lasted almost 10 years: many lives had been lost and there had been grave human rights violations on both sides. Concerned that the conflict might acquire a racial dimension, the Committee had repeatedly asked the State party to provide information on the human rights situation in Bougainville in general and observance of the provisions of the Convention in particular. The peace process that had begun in 1998 seemed to have reached an advanced stage. The agreement reached between the central Government and the former combatants had provided for disarmament and destruction of the combatants' weapons, the drafting of a constitution for the province of Bougainville and democratic elections, which were expected to be held in April 2005. The Committee would be interested to know the impact of those developments on the population and national institutions. The State party's implementation of the Convention was also likely to have been hampered by other factors, such as its relatively recent independence, its topography, its vulnerability to natural disasters, its ethnic diversity and its poverty. In addition, Papua New Guinea was increasingly exposed to modern forms of crime.

3. Papua New Guinea was relatively isolated at the international level and had ratified only seven international human rights instruments, including the Convention. It was one of the few developing countries not to have a UNDP presence and only the United Nations High Commissioner for Refugees (UNHCR) had been able to operate there. It had tended to turn to the South Pacific Forum, of which it was a member, and to Australia, on which it was economically dependent. It did have representation at United Nations Headquarters in New York and in January 2004 had submitted its initial report to the Committee on the Rights of the Child, which might be interpreted as a sign that it was ready to resume dialogue with the treaty-monitoring bodies.

4. Analysis of the available information indicated that the population of Papua New Guinea had grown from 3 million in 1983 to between 5.3 and 5.5 million in 2003. About 40 per cent of the population lived in the highlands. The majority of the population was Melanesian, with a

minority of Europeans, Asians, Chinese, Indians and Africans. No less than 854 languages were spoken by a corresponding number of ethnic groups. The vast majority of the population was Christian, although there were also some 15,000 Baha'i and 2,000 Muslims. The Churches were very active in education and charity work; large sums of money were sometimes spent and involvement in money-laundering was suspected.

5. Indonesians from Irian Jaya were the largest group of asylum-seekers. Some 12,000 had fled to Papua New Guinea between 1984 and 1986, and a further 400 between 1987 and 2000. Thanks to UNHCR intervention, the first wave of asylum-seekers from Irian Jaya had been granted prima facie refugee status. The same principle had not applied to the second wave of arrivals. In 2000, 2,457 refugees from Irian Jaya had received residence permits for a trial period of eight years, after which they could acquire Papua New Guinea citizenship. Since 2001, asylum-seekers who had not been granted refugee status had been put under pressure to return to Indonesia, and about a third had done so.

6. Apart from those asylum-seekers who were more or less tolerated, others who could be described as undesirable were held in detention camps under the terms of a Memorandum of Understanding with Australia, in accordance with which Papua New Guinea received financial assistance in return for accommodating asylum-seekers whom Australia did not wish to have on its territory. Initially, Papua New Guinea had undertaken to accommodate 400 Afghan asylum-seekers for up to six months; following renegotiation, it had now agreed to accept 1,000 asylum-seekers for a duration of 12 months.

7. The situation had been complicated by the State party's failure to introduce national legislation to determine who was entitled to refugee status. Noting that in some cases the Constitution made a clear distinction between citizens and non-citizens, she said that it was too early to tell whether the case of the 1,217 children of refugees and asylum-seekers born in Papua New Guinea who had been granted citizenship in 2004 was an exception or formed part of a significant trend.

8. The initial report submitted by Papua New Guinea to the Committee on the Rights of the Child in 2004 had made no mention of the 1963 Discriminatory Practices Act, which might indicate that it had been repealed. The Committee had consistently called on the State party to withdraw its reservation to article 4 of the Convention, and she reiterated that appeal. The national human rights commission, whose establishment had been announced more than once, did not seem to have materialized. She also wished to know about any NGOs working in the field of human rights and about the influence of civil society in general.

9. Another area of concern to the Committee related to steps taken to ensure redress for the victims of the numerous human rights violations perpetrated during the Bougainville conflict. The role of the Ombudsman would be of interest in that regard. A 2002 report by the United States State Department indicated that the justice system was independent in theory but was crippled by corruption. With regard to the limited realization of economic, social and cultural rights, it was common knowledge that the Bougainville conflict had been motivated by ill-feeling about mining practices that did not respect economic rights.

10. It could thus be concluded that Papua New Guinea was a country in distress. It was crucial that it should resume the process of dialogue with the Committee. She accordingly suggested that a representative of the Committee might be authorized to travel to New York to meet a representative of the State party in order to encourage it to cooperate with the Committee, and, if it so wished, to seek technical assistance from OHCHR in the preparation of a report.

11. Mr. SHAHI said that as the Committee had used its review and early warning procedures with respect to Papua New Guinea without success, it was difficult to know what it could do next. He noted that in the Committee's recent thematic discussion on genocide, it had been mentioned that the non-submission of reports could sometimes be an early indicator of genocide.

12. Mr. de GOUTTES said that the State party's submission of a report to the Committee on the Rights of the Child, which had been considered in January 2004, showed that it was capable of submitting a report. CERD should use that fact to increase the pressure on the State party to submit a report.

13. Mr. ABOUL-NASR said that as the State party did not have permanent representation in Geneva, the Committee should write a strongly-worded letter informing the Government that the Committee would be forced to draw the attention of the General Assembly to Papua New Guinea's refusal to cooperate with it.

14. Mr. HERNDL said that the State party only had reporting obligations under three international human rights instruments and so it should not be difficult for it to fulfil those obligations. He agreed that the Committee should approach the Government once again in an attempt to elicit a response. In deciding on the form of that approach, the Committee should choose the strongest option available to it in order to convince the State party that it must cooperate with the Committee. It should refer to the submission of a report to the Committee on the Rights of the Child, which might be seen as setting a precedent.

15. Mr. KJAERUM said that for the time being it seemed there was little he could do as follow-up coordinator and suggested that the matter should continue to be treated under the Committee's review procedures. He endorsed the suggestions of sending a letter to Papua New Guinea's Ambassador in New York and arranging a meeting between him and the Chairman of the Committee so as to ascertain why the State party was failing to comply with its reporting obligations. If the Chairman was unable to travel to New York, then perhaps he could delegate another United Nations official to meet the Ambassador.

16. Mr. LINDGREN ALVES said that one option was for the Chairman to make contact with the Ambassador of Papua New Guinea during the United Nations General Assembly. Another option would be to approach the representative of UNDP or another United Nations agency in Papua New Guinea or a neighbouring country to try to impress on the Government the fundamental importance of regular reporting. It was hard to accept the State party's silence when the situation there was such that it would clearly benefit from the Committee's advice and assistance. Emphasis would therefore have to be laid on the Committee's good intentions.

17. Ms. PROUVEZ (Secretary of the Committee) said that several weeks previously the secretariat had taken the initiative of contacting the UNDP office in Papua New Guinea to inform it of the review procedures under way and to solicit its assistance in making representations to the State party. However, no reply had been received to date.

18. Mr. CALI TZAY said that, notwithstanding the lack of success thus far, the Committee must pursue its efforts to convey to Papua New Guinea the importance of re-establishing dialogue with a view to preventing racial discrimination in the country.

19. Ms. DAH, responding to members' comments, said there was general agreement on the need to make more vigorous representations to the State party concerning the importance of complying with its reporting obligations; and mention should certainly be made of the recent submission of a report to the Committee on the Rights of the Child. Furthermore, there seemed to be serious racial discrimination problems in the State party warranting the Committee's attention, but more information was needed so as to make a proper assessment. She noted the support for the idea of arranging a meeting between the Chairman and the Ambassador of Papua New Guinea in New York.

20. Mr. SICILIANOS said that if it was not possible for the Chairman to go to New York owing to financial constraints, then perhaps he could be represented by Mr. Boyd, who was already in the United States.

21. Mr. ABOUL-NASR said that all too often the problem with developing countries was that they did not have the requisite financial and human resources to prepare their reports. When the Chairman made contact with the Ambassador, he should make it clear that the secretariat would be able to provide technical assistance in that connection.

22. Mr. PILLAI suggested that the International Coordinating Committee of National Institutions for Promotion and Protection of Human Rights might be of assistance in making contact with the State party. The Coordinating Committee had a wide range of useful contacts in the Asia-Pacific region and was currently chaired by Mr. Kjaerum.

23. Mr. SHAHI suggested that the Chairman or another Committee member might wish to contact the Government of Papua New Guinea directly by telephone, which would be a swift solution and avoid any financial burden on the Committee.

24. Mr. AMIR said that in two weeks' time he would be in Washington and New York, and would be willing to assist in any way he could in re-establishing the dialogue with Papua New Guinea if the Committee so wished.

25. Mr. KJAERUM said that the best approach might be a country visit and enquired whether that would be feasible in the light of financial constraints.

26. Mr. HERNDL, supported by Mr. de GOUTTES, suggested that the Committee should make one last attempt by issuing a further decision. At the same time it should request the United Nations High Commissioner for Human Rights, during her next visit to New York, to

summon the Ambassador of Papua New Guinea with a view to explaining the implications of the decision and the State party's failure to respond. A high-level approach of that kind might prove more effective than a country visit or any of the other solutions proposed.

27. Mr. LINDGREN ALVES suggested that advantage should be taken of Mr. Amir's offer to re-establish contact with the State party during his forthcoming visit to the United States.

28. Mr. SICILIANOS said that a decision should be taken without further delay on action to be taken on a number of fronts, starting with a letter from the Committee and an attempt by either Mr. Amir or Mr. Boyd to contact the Ambassador in New York.

29. The CHAIRMAN said a number of suggestions had been made and were not mutually exclusive. He would take it the Committee agreed in principle that he should follow up those suggestions so as to ensure that contact was made with the State party in the swiftest and most effective manner possible.

30. It was so decided.

The meeting rose at 4.30 p.m.