



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

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Summary record of the 2083rd meeting

Held at the Palais Wilson, Geneva, on Tuesday, 8 March 2011, at 3 p.m.

Chairperson: Mr. Kemal

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The meeting was called to order at 3.05 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Thirteenth to seventeenth periodic reports of Rwanda (CERD/C/RWA/13-17; CERD/C/RWA/Q/13-17)

1. *At the invitation of the Chairperson, the delegation of Rwanda took places at the Committee table.*
2. **Mr. Karugarama** (Rwanda) said that the Rwandan population could not be classified by their physical appearance or according to any definition other than the fact that all citizens were Rwandans, with a shared history and origin. There were no indigenous people in the country. During the colonial period, attempts to separate people into different categories had failed. The authorities had even tried to impose a system under which individuals who owned 10 or more cows were Tutsi and those who had fewer cows were Hutu; as cows were bought and sold, peoples' supposed ethnic origin changed. There were no cultural, linguistic or physical differences between the Tutsis and the Hutus, and families contained members from both groups. During the genocide, the only way to differentiate between the groups had been by checking people's identity cards; it was well known that some Hutus who had forgotten to carry their cards had been killed at roadblocks because of mistakenly perceived physical differences. After hundreds of years of inter-ethnic marriage, the groups were so mixed that it was impossible to distinguish between them. During the colonial period, all persons had been categorized as "indigenous" on their identity cards.
3. **Mr. Habyarimana** (Rwanda) said that in 1994 his country had been in ruins, with 1 million people dead, 3 million refugees, the Government fleeing, and the social, economic and political infrastructure completely destroyed. One of the key institutions the Government of the time had established in an attempt to rebuild the nation had been the National Unity and Reconciliation Commission (NURC). Reconciliation had been extremely difficult: no one who had survived the genocide or fled the violence and subsequently returned could trust anyone else. The NURC had striven to promote reconciliation in order to rebuild social cohesion. That had required a change of mentality, away from the construct of ethnic Hutu, Tutsi and Twa. The Commission had called on the entire population to take part in the process of national unity and reconciliation. Awareness-raising programmes had been conducted for many groups, including young people, political leaders and those returning to the country.
4. Over 600 associations and clubs had been set up bringing together victims' families, the families of convicted and imprisoned perpetrators of the genocide, and different groups, including ethnic minority groups. Many of them had been the fruit of the work of the NURC, while others had been set up spontaneously by the public. Throughout the country, numerous reconciliation initiatives had been taken, enabling the families of victims of the genocide to forgive those who had killed their loved ones. That had also been a question of survival, since there had been no segregation between Tutsis, Hutus and Twas; they had all lived in the same villages, neighbourhoods and regions before the genocide and continued to do so. The clubs and associations that had been formed were among the foundations of reconciliation in Rwanda. Many people had joined employment-based associations and found that there were more factors uniting them with other members than dividing them.
5. Traditional Rwandan approaches to dispute resolution had been adopted in the reconciliation process, including *gacaca* courts, which had played an important role in giving the survivors of the genocide and convicted perpetrators a forum in which to come face to face. The process had been difficult at first but over time, through dialogue and political will, significant progress had been made, enabling people to begin to ask for

forgiveness and be forgiven. The Commission had also employed Rwandan culture in its approach to civic education programmes. That was particularly so in the case of the *ingando*, solidarity camps at which those elected to power after the genocide had lived side by side for one or two months and established a dialogue about the country's future, regardless of whether they had remained in the country or fled abroad during the genocide. *Itorero* had also been used, as another educational forum for social cohesion. Prior to the colonial period all Rwandans — Hutu, Tutsi and Twa alike — had gone to those schools. After the genocide, they had been a useful forum for learning about Rwandan culture, mutual respect and leadership.

6. In a 2008 public opinion survey on how people participated and perceived developments in social cohesion, the majority of respondents had referred to the clubs and associations as a positive element. In 2010, the Rwanda Reconciliation Barometer had been set up by the NURC in cooperation with the South African Institute for Justice and Reconciliation and the Rwandan Institute of Research and Dialogue for Peace. It was a quantitative monitoring tool that enabled the NURC to gauge current public opinion on the progress and pitfalls of the country's national reconciliation programme. In 2010, it had reflected the public's view that significant progress was being made in terms of mutual understanding and social reconciliation. Reconciliation Barometer research would continue to measure progress in the future.

7. In order to implement the Vision 2020 policy, increase reconstruction efforts and resolve the problem of stereotypes, dialogue was an absolute necessity at grass-roots level in order to change mindsets and ensure that everyone identified themselves as Rwandans rather than members of a particular group. In order to ensure that preventive work and conflict resolution were effective, the NURC also had outreach programmes in which it worked in reconciliation forums with civil society, churches and various bodies. The unity and reconciliation programme had therefore been adopted by many different groups and individuals, which was part of the reason for its success. The local bodies provided an early warning system in villages and districts and constituted a training ground for methods of conflict resolution.

8. While the notion of the different social groups (Hutu, Tutsi and Twa) had been a political and historical construct, it was undeniable that enormous suffering had been caused as a result. The genocide had been directed against the Tutsis, but many Hutus had also died while trying to defend their Tutsi neighbours and friends. The different groupings could not therefore be ignored, but the focus should be on unity and reconciliation.

9. **Mr. Karugarama** (Rwanda) said that the *gacaca* courts had not taken on any new cases during the previous 18 months. The remaining *gacaca* courts were examining some 800 appeal cases which were still pending. A final report was being compiled on all the work of those courts, and would include details of all proceedings, witnesses, locations and the total number of those who had been tried and convicted. It would be published and disseminated nationally and internationally.

10. The *gacaca* courts had tried about 1.5 million people, of whom some 40,000 were currently serving prison sentences. The remainder had been reintegrated into their communities, proving the success of the *gacaca* system and the NURC. Some 15,000 people had been tried by the ordinary courts. The International Criminal Tribunal for Rwanda had more resources and better facilities, but had tried fewer than 50 people. It had therefore been necessary to find a judicial system that was capable of prosecuting all those accused of taking part in the genocide in order to destroy the culture of impunity and create a basis for reconciliation. *Gacaca* had provided the solution.

11. Rwanda was officially trilingual, with the national language, Kinyarwanda, being spoken together with English and French. All domestic legislation was drafted in

Kinyarwanda and translated into English and French. Any conflict of interpretation was resolved through reference to the text in Kinyarwanda. When Rwanda had joined the East African Community, English had become more important as the common language of trade with commercial partners. English had therefore been prioritized as the language of instruction in schools, but French was also taught and all Rwandans were bilingual. Kinyarwanda was taught for at least the first three years of primary education.

12. Rwandan law contained elements of numerous legal systems. While it retained elements of civil law, it also incorporated elements of common law relating to the promotion and protection of human rights, such as habeas corpus, so as to strengthen the State's legal structure. In addition, the Rwandan Constitution enshrined traditional models of dispute resolution while the Criminal Code provided for non-custodial sentences.

13. A number of prisons had recently closed owing to falling numbers of prisoners and it was hoped that that trend would continue following the release of *gacaca* prisoners who had served their sentences. The small intake of prisoners could be explained by the amended Criminal Code, which prescribed custodial sentences only for serious crimes but otherwise prescribed restitution and community work to reduce overcrowding. The aftermath of the genocide remained the greatest impediment to prison reform but the gradual release of prisoners would enable progress to continue in that area.

14. An independent survey had been conducted on, inter alia, the national Government, *gacaca* and ethnicity, and had attested to positive developments in areas such as segregation and life expectancy. While the Committee had expressed concern at *gacaca*'s failure to meet international standards, it should be borne in mind that no system was perfect and that *gacaca* had succeeded, where other systems could not have, in addressing the aftermath of genocide.

15. Perceptions deriving from ethnic conflict could only be altered over time. Ethnic profiling among children and young people was gradually disappearing as they had the opportunity to mix freely in schools and universities. Young people were encouraged to think of themselves as Rwandans and not as Tutsis, Hutus or Twas.

16. As to Rwanda's ambition to become a middle-income country, there was no reason why that could not become a reality if it followed the example set by countries such as China and Singapore and made further advances in the areas of business and GDP. Rwanda had already made a significant move towards achieving its ambition by attaining nearly all its Millennium Development Goals ahead of time.

17. With regard to the adoption of English as the language of instruction in schools, it was the Government's intention that the country should remain bilingual; most children of school age already spoke English and French. However, that objective could only be achieved by means of a common focus on promoting a bilingual environment. Ultimately, language was a mere vehicle of expression and had no bearing on the Rwandan national identity.

18. On the question of forced repatriation, the claim that the Government had forced citizens to return had been nothing but media speculation. It was natural that the prospect of being tried for genocide would deter people from returning. Moreover, the fact that the Democratic Liberation Forces of Rwanda (FDLR) had been universally recognized as a terrorist organization and that some of its leaders were on trial for war crimes and crimes against humanity in Europe could endanger the lives of any persons affiliated with the organization who chose to return. The NURC's demobilization programme and the programme for reintegration of former combatants had helped to cut off support to FDLR. The NURC was also responsible for reintegrating defectors and their families into the life of the country.

19. On the question of persisting social inequalities, there was no immediate solution but the Government would continue its work in the areas of education, housing and health care. The Rwandan nation needed to find stability, foster social cohesion and put an end to violence lest history repeat itself. Ineffective laws would only impede the country's progress but inclusive laws would pave the way to the future. The greatest challenge on the road to recovery was the international community's myopic view of Rwanda. The world's intellectuals had a responsibility to look beyond the country's troubled past and to help its people build a more peaceful future.

20. As to the removal of forest-dwellers from their traditional place of residence, there was no record of any Rwandans living in the forest. It would be interesting to know the source and accuracy of the statistics quoted in that connection. The fact that there was no way to corroborate them suggested that they were all but arbitrary.

21. With regard to decentralization and the Committee's concern that discrimination persisted in decentralized zones, his Government would not tolerate any form of discrimination, given that discriminatory policies had been the root cause of the genocide that had afflicted the country. The scope of the Government's zero-tolerance policy on corruption extended to discrimination.

22. Defining a concept as intangible as genocide ideology was often problematic, as was defining it as a crime. Could it stand alone or did it require a legal framework? The issues arising from an attempt to define the concept would be addressed in the current reforms.

23. The Government had conducted a comparative study on the concepts defined in laws relating to xenophobia and Holocaust denial. The definitions contained in European legislation were no better than and were often inferior to those found in Rwandan enactments on the same subjects. The focus should be shifted from attempting to define concepts to defining the actions that were indicative of the ideology in question.

24. On the question of raising civic awareness, persons perpetrating discriminatory acts should be held accountable and not be allowed to invoke ethnicity-based persecution in their defence.

25. **Mr. Amir**, summarizing the history of Rwanda's three main population groups and the role of the colonizers in establishing an ethnicity-based hierarchy in the country, said that since all Rwandans had spoken the same language, practised intermarriage, moved freely from one profession to another and practised the same religion, they could not be considered to comprise ethnic groups in accordance with the definition established in article 1 of the Convention.

26. **Mr. Karugarama** endorsed Mr. Amir's view that it was inappropriate to refer to ethnic groups in the Rwandan context as they had never existed. The German colonizers had exerted a positive influence on the country as they had respected the structures they had encountered, whereas the Belgians had undermined them and designated ethnic groups for the purpose of establishing their colonial administration.

27. The supposed migration of people into Rwanda during the fifteenth century remained a controversial issue. Even if there had been such a thing as ethnic groups at that time, 600 years of intermarriage and polygamy had produced a homogenous population. It was regrettable that such a theory had often been adduced for political ends.

The Government rejected the idea of the existence of an indigenous population as there was no evidence to suggest where they had come from or why they would have travelled to the country.

28. There was no historical evidence to suggest that migrants had arrived in Rwanda from Ethiopia. There was no trace of Amharic, Somali or Arabic in the language spoken by

Rwandans today, or even in place names, for example. Research had shown that various Bantu-speaking groups had moved around and intermingled in the territory of pre-colonial Rwanda, which had then stretched well into modern Uganda, the Congo and the United Republic of Tanzania. Briefly a German colony, Rwanda had been divided after Germany's defeat in the First World War and placed under Belgian mandate. Even today, many people in neighbouring States spoke Kinyarwanda, the Bantu language that was spoken in Rwanda. All scholars agreed that there were no ethnic subgroups in the State party.

29. **Ms. Kayitesi** (Rwanda) said that, bearing in mind the State party's limited means, the National Commission on Human Rights (NCHR) was satisfied with its financial and human resources. At a time when other public institutions were being affected by budget and personnel cuts, the Government had agreed to increase the Commission's staff from 49 to 60, 7 of whom were permanent commissioners with wide human rights experience. The State contributed between US\$ 1.5 million and US\$ 2 million a year, more than some ministries received, to the running of the Commission. Further funds could be obtained from donors, meaning that around US\$ 1 million was available for education programmes and public awareness-raising campaigns.

30. Women members of parliament played a role in improving the situation of women in the State party. They had a forum that had contributed to the amendment of discriminatory provisions in certain legislation and the drafting of several bills, including one on gender-based violence and another on inheritance rights. Until the latter had been enacted, Rwandan women had been barred from inheriting from their husbands or parents. Under amended nationality legislation, women could now pass their nationality on to their children. Provisions of the Family Code and the Criminal Code had also been amended, including those relating to adultery, for which previously only women had been punishable. Women members of parliament had also contributed to awareness-raising campaigns, particularly during recent elections.

31. *Gacaca* courts had been established to promote reconciliation and reveal the truth behind the genocide that had taken place in the State party. Offenders who had admitted crimes of genocide and apologized had received prison sentences of 7 to 12 years. Many others had been sentenced to terms of community work and had therefore been reintegrated into society. The NCHR monitored the proceedings of the *gacaca* courts, in addition to those of mainstream courts, and had concluded that more than 80 per cent of cases had been tried properly. Where there had been doubts about proceedings, the NCHR had on occasion ordered reviews of trials. Another mechanism had been put in place to correct as many dubious court decisions as possible. The use of lawyers had been avoided in *gacaca* court cases because there were not enough to service all the courts and because they were frequently unaware of what had taken place in any given location, where the only available evidence came from local eyewitnesses. Nevertheless, the vast majority of cases had been dealt with fairly.

32. The participation of civil society groups in the preparation of the current periodic report had been limited, but a task force had since been set up to centralize drafting work and a broad range of NGOs were being consulted with a view to the drafting of future reports. In addition, a questionnaire prepared along guidelines suggested by international treaty bodies was being sent to all Government departments and public institutions so that they too could contribute. Media campaigns aimed at involving the public in the process should also help to ensure that future reports were the fruit of a broad, collaborative effort.

33. **Mr. Diaconu** underlined the importance of education, particularly for children born since the genocide of the 1990s, in the State party's attempts to achieve national reconciliation. However, reconciliation must also be translated into equal rights for all members of the population and in all spheres of life. The question remained as to why, if the Tutsis and Hutus had the same roots, language and culture, the genocide had taken

place. Surely it had not been caused merely by differing perceptions of one group by another. Deeper, socio-economic explanations must be explored. If causes were identified, efforts should be made to eliminate them.

34. Referring to the situation of the Batwa, he said that indigenous people must be recognized. According to information from the African Commission on Human and Peoples' Rights, which had begun to receive complaints from indigenous communities in Africa, the Constitution of Burundi, one of Rwanda's neighbours, guaranteed representation of the Batwa in parliament. Other African States had also started to officially recognize indigenous peoples in their territory.

35. **Mr. Karugarama** (Rwanda) said that the State party was not about to invent the presence of indigenous minorities in its territory just because they existed in other States. The desire in such States to protect their minorities was praiseworthy but what was good for Burundi was not necessarily relevant for Rwanda. Were those African States that had recognized their indigenous minorities better off than Rwanda for having done so? All marginalized persons in Rwanda should be protected regardless of whether they presented themselves as Batwa, Hutus or Tutsis. Marginalization was not a racial problem, but one associated with the living conditions of individuals.

36. Collective measures were needed to tackle the issues that had made genocide in the State party possible and possible socio-economic factors admittedly needed to be studied. The State party's policies were aimed at decentralizing decision-making and involving as much of the population as possible in political action in order to prevent any possibility of a recurrence of genocide and to eliminate hatred. Committee members should take the time to visit the State party, interact with Rwandans, carry out surveys and communicate their findings to the Government.

37. **Mr. Ewomsan** said that the Committee was not a court. Its task was to help the State party implement the provisions of the Convention. As a national of Togo, another former German colony, he felt a great attachment to Rwanda and had been greatly pained by the genocide that had taken place there. The State party had only one ethnic group and discrimination had found its ultimate expression in jealousy. The task of the Committee was to understand the State party's problems with a view to helping it resolve them. To do so, it required information. The delegation had admitted that certain groups in the State party were discriminated against and they needed to be helped in order to circumvent possible future conflicts. Massacres had taken place in Rwanda and the State party's history was littered with violent episodes. National unity was a noble goal and, to achieve it, the State party must work on changing the attitudes of the younger generation in the hope of removing possible sources of discord. The Committee was there to help the State party to achieve that goal.

38. **Mr. Karugarama** (Rwanda) said that it was essential to stick to proven facts rather than indulge in broad generalizations.

39. **Mr. Avtonomov** supported the views of Mr. Amir and Mr. Ewomsan and emphasized that the Committee asked questions in order to obtain information, not to make accusations. He requested more information in the State party's next periodic report on its legislation regarding aliens and immigrants, which could be a source of discrimination.

40. On the question of the workings of traditional justice, it would be interesting to know more about which institutions applied traditional justice and whether it was used in the formal courts as well. He asked whether it was possible to appeal from traditional courts to higher courts and whether traditional justice mechanisms were an official part of the justice system. He wondered whether traditional justice courts complied with international law and the State party's Constitution, which had been adopted in 2003.

41. He agreed with the delegation that the example of Mauritius was a good one for the State party to follow. Although its people came from the most diverse backgrounds, it was succeeding in building a single society and a united nation.

42. **Mr. Karugarama** (Rwanda) said that two Mauritians had served as commercial high court judges.

43. With regard to traditional justice, *gacaca* procedures would not generally be maintained as part of the formal judicial system. However, *gacaca* practices that served a useful purpose would be preserved. The Constitution recognized what were known as mediation or reconciliation committees, whose members were elected in all administrative units for a five-year term, renewable once. Cases concerning certain petty criminal or civil offences could not be heard in a court of law until mandatory mediation proceedings had been completed. Such offences might involve one farmer's animals eating another farmer's crops, disputes over water points or minor cases of theft. The only possible sentence at the lower level was a fine. If the parties were dissatisfied with the outcome, they could have the proceedings transferred to a regular court. The *gacaca* system handled about 60 per cent of all cases. The formal judicial system handled cases involving more serious offences. The decisions of the mediation committees were usually respected, since they were based on the *gacaca* philosophy of forgiveness and reconciliation. They also conveyed a sense of fairness and transparency, since ordinary people were being involved in the dispensation of justice. The system had proved very effective and crime rates, especially for violent crime, were low.

44. **Mr. Thornberry** assured the delegation that the Committee had no preconceived ideas and was seeking to analyse the situation in Rwanda by means of a constructive dialogue. As the application of universal norms would be impossible if all situations were incommensurably different, the Committee searched for common features while respecting differences.

45. The Committee was not obsessed with the notion of ethnicity. Article 1 of the Convention set out five different grounds of racial discrimination. On the other hand, even if the concept of ethnicity was "constructed", its existence and impact were unaffected. In general, a sense of ethnic identity was not perceived as being incompatible with a sense of national identity. Given the State party's resistance to the application of ethnicity and related concepts, he asked whether the concept of historical marginalization, or the universalistic approach to the process of identifying areas of deprivation, could deliver the full range of human rights to the populations concerned, including the important identity rights reflected in article 27 of the International Covenant on Civil and Political Rights, article 30 of the Convention on the Rights of the Child and other human rights treaties. He wondered whether the State party felt constrained by its recent history to adopt that approach or whether it considered that the approach had enduring value and was particularly appropriate for Rwanda.

46. The Committee frequently perceived an association between poverty and ethnicity. Resistance to the ethnicity discourse had implications for data collection, since the Committee generally asked for disaggregated data concerning, for instance, gender and ethnicity. Creative reflection on the compilation of accurate data could assist States parties in assessing the effectiveness of their policies. The delegation had criticized figures presented by the Committee at the previous meeting, but any flaws in the figures were largely due to the limited data provided by the State party.

47. He asked whether there was an official definition of historically marginalized communities and which communities were included in the category.

48. The Committee was confronted with a wide range of approaches to unity and diversity among States parties. Rwanda was at one end of the spectrum, asserting an

undifferentiated unity. The States at the other end of the spectrum accepted diversity within unity and tried to promote mutual respect and tolerance through education and other measures. The key question in both cases was the extent to which the approach reflected the real situation in the country concerned, was consistent with human rights, and could deliver justice and reconciliation.

49. Forest peoples in a number of countries had been expelled from their traditional habitat and given no role in subsequent forest management in spite of their traditional skills in the non-exploitative use of forest resources. When groups were displaced, they frequently lost their livelihoods and previous status and were relegated to the margins of society. He asked whether there were any programmes aimed at restoring the link between forest people and their traditional occupations in Rwanda.

50. In some countries a somewhat misplaced discourse of modernity was being applied to peoples living in a traditional or time-honoured manner. His response to that discourse was that all people were modern; they simply expressed their modernity in different ways.

51. **Mr. Karugarama** (Rwanda) said that the Rwandan authorities were convinced that they were applying the correct approach to the issue of minorities and vulnerable or marginalized people, and that history would prove them right. They had been pursuing a policy of tolerance and reconciliation based on facts rather than myths since 1994. The millions who had been incarcerated had returned to their homes. Community work had been introduced as an alternative to imprisonment. The death penalty had been abolished and the sentences prescribed under the Criminal Code were reasonable. Health policies and policies of economic empowerment had been adopted on behalf of historically marginalized groups such as the Batwa, women, and persons suffering from leprosy or mental or physical disabilities.

52. Rwandans also believed in diversity within unity. Although there were no ethnic groups in the conventional sense of the term, people were obviously different and the Constitution therefore provided for a multiparty system conducive to pluralism. There were currently 11 registered political parties and no party, regardless of the number of votes it received, was permitted to govern without sharing power. In practice, the President never represented the same party as the presiding officer of parliament or the Senate. The same applied to the appointment of ministers, ambassadors and heads of parastatal organizations. Candidates were viewed not in terms of ethnicity but in terms of diversity and power-sharing. The Hutu-Tutsi distinction could not be invoked as the overriding characteristic of national life. He reminded the Committee that the Hutu regime of President Kaibanda had been overthrown in 1973 in a military coup led by another Hutu.

53. The allegation that forest people had been displaced was unfounded. A representative of the African Union Commission on Human and People's Rights had visited Rwanda and reported on the situation of marginalized peoples. The United Nations Independent Expert on minority issues had also visited the country recently and would shortly submit her report.

54. Rwandan leaders were very much aware of their responsibility to prevent a recurrence of the genocide or any comparable tragedy. Seventeen years after the genocide, the signs were encouraging. The country had made considerable progress but as in all other countries, including long-standing democracies, there was still a long way to go. Intellectuals and people of goodwill should support the healing process instead of spreading disinformation.

55. **Mr. Habyarimana** (Rwanda) said that the NURC had launched major countrywide debates before implementing the reconciliation programme. The first popular consultation had taken place in 1999 in the country's 141 communes. The question to be debated was how a tragedy such as the genocide could have occurred. Under what circumstances could

neighbours be induced to murder each other? Four grounds for the genocide had been identified. The first was poor governance and leadership and people's lack of trust in political parties. The second was the ideological weapon of division and discrimination wielded by the Government. A virulently anti-Tutsi document entitled "The Ten Commandments of the Bahutu" had been published in 1990 in Government-supported newspapers, exacerbating inter-ethnic hatred and propagating a genocidal ideology. The third ground was poverty. The leaders of the genocide had promised farmers who eliminated their neighbours that they could take over the latter's property. The fourth ground was impunity. The mayors of the 141 communes had been appointed by the President and those who had instigated crimes of hatred had been promoted.

56. Additional national consultations on the genocide and its causes had been conducted in 2000, 2002 and 2004. The meetings had been attended by representatives of the national and local authorities, eminent foreign personalities and representatives of Rwandans living abroad. They had also discussed unity and reconciliation, decentralization, the *gacaca* traditional justice system and anti-poverty policies with a view to preventing a recurrence of the crime of genocide. All the programmes discussed at the meetings had been implemented in 2005.

The meeting rose at 6 p.m.