



**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 1771st MEETING

Held at the Palais des Nations, Geneva,  
on Wednesday, 9 August 2006, at 10 a.m.

Chairperson: Mr. de GOUTTES

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The meeting was called to order at 10.20 a.m.

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

Combined sixteenth to eighteenth periodic reports of Mongolia (CERD/C/476/Add.6, HRI/CORE/MNG/2005) (continued)

1. At the invitation of the Chairperson, the members of the delegation of Mongolia resumed their places at the Committee table.
2. Mr. GANBAT (Mongolia), in response to questions relating to the situation of foreigners, specifically with regard to marriage, said that article 16 (11) of the Constitution guaranteed men and women equal rights in the political, economic, social and cultural fields and in family relationships. Men and women were free to enter into marriage by mutual consent if they had attained the minimum legal age, article 6 of the Family Law set the legal age for marriage for both men and women at 18. A Mongolian citizen was free to marry a foreigner or stateless person.
3. According to the Law on Citizenship of 1995, a child born in Mongolia to a Mongolian citizen married to a foreigner or stateless person acquired Mongolian citizenship; if born in a foreign country the child would be granted Mongolian citizenship if both parents so agreed in writing. The child of a Mongolian citizen and a stateless person automatically acquired Mongolian citizenship whether born in Mongolia or not. A child born in Mongolia of parents whose nationality was not known automatically acquired Mongolian citizenship. A child of stateless parents who was born in Mongolia or adopted by stateless parents was considered to be Mongolian until the age of 16, at which time he/she had the right to decide whether or not to maintain Mongolian citizenship.
4. According to the Law on the Legal Status of Foreign Citizens of 1993, a foreigner legally resident for 90 days to 5 years was considered to be a long-term resident. Article 6 of the Law on Health granted foreign residents the right to full medical coverage. According to article 10 of the Law on Citizenship foreign and stateless residents were prohibited from engaging in any activity that might affect national unity or harm society, such as promoting violence, distributing pornography or drugs, fomenting religious strife, etc. Mongolian citizens were likewise prohibited from such activities pursuant to other legislation relating to penal, religious or cultural matters. Foreign residents were not allowed to become members or employees of political parties although in practice they were often asked for their opinion by political parties and were therefore able to participate in political life.
5. With regard to participation by non-governmental organizations in the preparation of the periodic report, he said that in accordance with article 13 of the Law on the National Human Rights Commission of Mongolia, the Commission had had an opportunity to review the draft report and to make comments. He stressed that the Commission was an independent body responsible for promoting human rights in a fair and transparent manner; any attempt by an individual or organization to unduly manipulate or influence the Commission was prohibited.

6. Turning to the education system, he said that free education up to the secondary level was provided for all children. Private schools were also allowed if they met the educational requirements of the Ministry of Education. The Kazakh ethnic minority, for example, had secondary schools funded by the State; in areas where ethnic groups were not numerous enough to warrant their own school, they nevertheless had the right to special classes. His Government was making every effort to develop the education system with limited means. For example, it provided educational materials free of charge to secondary students from families with limited financial resources and paid the full education expenses of one child of every civil servant. He recalled that in the 80 years since independence Mongolia had achieved a literacy rate of more than 90 per cent. Freedom of the media and freedom of opinion were guaranteed in Mongolia and there was a thriving media sector.

7. Equality between men and women was guaranteed by articles 14 (2) and 16 (11) of the Constitution and the Government had been running a programme for promoting gender equality since 2002. A law on domestic violence had been adopted in 2004 and the Government was committed to mainstreaming the principle of gender equality in the law.

8. Every effort was being made to improve medical services available to rural and remote areas, especially for nomadic groups. A programme had been approved to improve the capacity of health centres in remote areas by modernizing equipment, increasing staff and providing better training to both staff and the population.

9. Mr. ODBAYAR recalled that Mongolia was a unitary State, although there were some ethnic groups whose rights were respected. Foreign residents basically enjoyed the same rights as citizens. He stressed that the National Human Rights Commission was a fully independent and highly influential body; the Government took full note of its opinions and it could also engage in discussions with the Parliament, as it had recently for example with regard to prisoners' rights.

10. As for the alleged negative attitude of some teachers to students in rural areas, he recalled that any discriminatory act would be illegal, but he felt sure such behaviour by teachers was rare. Any act of racial discrimination on the part of an individual or an organization or any of its members was illegal under the Criminal Code.

11. Mr. TANG Chengyuan (Country Rapporteur) welcomed the information provided by the delegation on the legal framework for the implementation of the provisions of the Convention and commended the State party for the establishment of the National Human Rights Commission; such institutions were still rare in Asia. The influence and prestige of that body and the Government's sincere efforts to promote and protect human rights augured well for the future.

12. The delegation's responses had in large part addressed the Committee's concerns relating to the situation of foreigners and ethnic groups, although more statistical data should be provided in the next periodic report. More information should also be provided on efforts to change public attitudes to foreigners and review legislation to bring it into conformity with the provisions of the Convention. He looked forward to continuing the positive dialogue with the State party in the context of the Committee's consideration of its next periodic report.

13. The CHAIRPERSON thanked the high-level delegation of Mongolia for attending the Committee's session.

14. Mr. ODBAYAR (Mongolia) thanked the Country Rapporteur and all other members for their valuable questions, which would help the Government to prepare the next periodic report. The fruitful dialogue with the Committee had helped to clear up a number of misunderstandings, such as that relating to the low representation of minority ethnic groups in Parliament. His country was committed to implementing the Convention and preventing racial discrimination.

15. The delegation of Mongolia withdrew.

The meeting was suspended at 11.10 a.m. and resumed at 12.05 p.m.

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

Reform of the United Nations human rights treaty bodies (HRI/MC/2006/2; HRI/MC/2006/3 and Corr.1; HRI/MC/2006/7)

16. The CHAIRPERSON reported back to the Committee on a number of meetings which he and other members had attended, relating to proposed reforms of the human rights treaty bodies.

17. Mr. Sicilianos, Mr. Yutzis and himself had attended the fifth Inter-Committee Meeting of the human rights treaty bodies, which had taken place in Geneva on 19-21 June 2006. The meeting had discussed the concept paper submitted by the High Commissioner for Human Rights, Ms. Arbour (HRI/MC/2006/2). The High Commissioner's proposal for a unified standing treaty body had given rise to concern, especially on the part of African and Asian States parties. The meeting had requested the Secretariat to continue to organize consultations with States parties, non-governmental organizations, national human rights institutions and other stakeholders. The meeting had found the other proposals in the concept paper to be worthy of further discussion. The meeting had expressed great interest in the Committee's proposal for the creation of a single body to deal with individual communications (see the Committee's report to the General Assembly at its sixtieth session, A/60/18, para. 478).

18. The meeting had recommended that a working group should be set up to discuss harmonization of working methods, consisting of one member from each of the seven treaty bodies. The Secretariat should submit revised proposals for the harmonization of terminology (see document HRI/MC/2005/2, annex) to the treaty bodies for further consideration. Each treaty body should adopt procedures to ensure follow-up of its concluding observations in public meetings, including the appointment of a rapporteur on follow-up.

19. The meeting had further recommended that the treaty bodies should maintain close relations with the Human Rights Council, while preserving their independence. Their concluding observations should form part of the universal periodic review procedure to be introduced by the Human Rights Council.

20. The meeting had accepted the revised harmonized guidelines on reporting, which provided for a common core document and separate treaty-specific documents (see document HRI/MC/2006/3 and Corr.1). The treaty bodies should compile a list of any difficulties they experienced when using the guidelines: their experiences would be reviewed at the seventh Inter-Committee Meeting in 2008.

21. The meeting had adopted further recommendations on the following issues: liaison with other United Nations bodies and the specialized agencies; the need for non-governmental organizations to submit their information as early as possible; the proposed round table for the development of harmonized criteria for the participation of national human rights institutions in the work of the treaty bodies; the report of its working group on reservations to the international human rights instruments; and the development of statistical indicators related to human rights (see document HRI/MC/2006/7).

22. In his capacity as Chairperson, he had also attended the eighteenth meeting of chairpersons of the human rights treaty bodies, held in Geneva on 22-23 June 2006. The meeting had endorsed the recommendations of the Inter-Committee Meeting and reiterated the doubts expressed there about the proposed unified standing treaty body. It had also approved the revised harmonized guidelines on reporting under the international human rights treaties (HRI/MC/2006/3). One State party had expressed doubts about the Committee's proposal for the creation of a single body to consider individual communications, on the grounds that such a body could not legally be created by adopting additional protocols to the human rights treaties.

23. Mr. SICILIANOS said that the Inter-Committee Meeting had expressed great interest in the Committee's proposal for the creation of a single body to consider individual communications and had asked for a more detailed proposal to be submitted to a brainstorming meeting on reform of the human rights treaty bodies (the "Malbun II" meeting), which had taken place in Triesenberg, Liechtenstein, on 14-16 July 2006. The three members of the Committee who had attended the Inter-Committee Meeting had described the changes the Committee had made to its working methods, including follow-up procedures and the revival of the early-warning and urgent action procedure.

24. Committee members had participated in the working group on reservations to the international human rights treaties, reiterating the position the Committee had adopted in 2004 and recalling the Committee's discussion on reservations with the International Law Commission (see document A/59/18, para. 11). He asked for those remarks to be duly reflected in the report of the Inter-Committee Meeting.

25. Committee members had endorsed the view that the treaty bodies' concluding observations should form the basis for the universal periodic review procedure to be introduced by the Human Rights Council.

26. Following the approval of the revised harmonized guidelines on reporting (see document HRI/MC/2006/3 and Corr.1), each of the treaty bodies needed to revise its own guidelines for the preparation of treaty-specific reports. He suggested that the Secretariat should prepare a revised version of the Committee's existing guidelines for consideration at a later session.

27. During the discussion on the High Commissioner's proposal for a unified standing treaty body, Committee members had reiterated the position laid down in the Committee's report to the General Assembly (see document A/60/18, para. 477). They had emphasized the legal weaknesses of the proposal and the potential loss of specificity - the specialist knowledge which each treaty body currently held about its own area of expertise. Other suggestions had been made, including a permanent, remunerated bureau made up of the Chairpersons of the treaty bodies, or a more harmonized and integrated system which retained the existing bodies.

28. The brainstorming session on 14-16 July had expressed the same scepticism as the earlier meetings about the feasibility of the proposal for a unified treaty body. It had become clear that, even if the proposal were amended in the light of States parties' objections, it could not be implemented without their unanimous approval, or at least a consensus. The brainstorming session had, however, found the Committee's proposal for a single body to consider individual communications to be a viable option. The representative of one State party had expressed doubts as to whether such a body could be created through the mechanism of an optional protocol: those doubts must have arisen during the debate on the issue at the three meetings, as he had discussed the issue with the representative concerned early on in the process, and no such doubts had been expressed at that stage. There would, naturally, be some difficulties during the transition to the new single body but, in his own opinion, such a body could be set up very quickly, given the requisite political will.

29. Undeniably, the creation of the Human Rights Council brought with it the risk of marginalization of the treaty bodies. They must ensure that they adapted to the new situation and made an appropriate contribution to the Council's work.

30. Ms. DAH noted that the reports on the fifth Inter-Committee Meeting of human rights treaty bodies and on the informal brainstorming meeting "Malbun II" offered a comprehensive review of the reform proposals and marked a turning point in the approach to those issues. She was pleased that the Committee's proposal to establish a single body to consider individual communications had been received favourably. She also welcomed the broad support for the harmonization, rather than the replacement, of the current system. Given the Committee's focus on follow-up, it was well placed to explore possibilities for the harmonization of follow-up procedures. The Committee's Follow-up Coordinator on concluding observations and recommendations and the Special Rapporteur for Follow-up on Opinions could, for example, attend inter-committee meetings to discuss options with other treaty bodies. The role of those meetings as forums for exchange between experts, States parties and United Nations agencies should be further strengthened. However, she had certain reservations about the proposal to establish a permanent bureau of chairpersons of treaty bodies. The Committee should engage in dialogue with other treaty bodies to identify solutions to the problem of non-reporting.

31. In the context of efforts to enhance cooperation between treaty bodies and other United Nations human rights mechanisms, the Committee's practice of engaging in continuing dialogue with relevant mandate holders could serve as an example. Establishing close ties with the Human Rights Council was crucial and treaty body output should inform the work of the universal periodic review mechanism. The Committee should also seek enhanced cooperation with regional organizations such as the African Commission on Human and Peoples' Rights, which could facilitate cross-fertilization and mutual reinforcement.

32. Mr. AMIR suggested that members might have different approaches to terminology and proposed holding a closed meeting to discuss the meaning of the terms used by the Committee. Unless each Committee was clear on those issues, it would be difficult to achieve standardization across treaty bodies. Members' legal knowledge was generally derived from the legal system prevailing in their country of origin. He wondered whether those who were more familiar with international human rights law might agree to brief other members on legal terminology that could be relevant in the context of standardization.

33. Mr. PILLAI said that treaty bodies had repeatedly highlighted the problem of inadequate follow-up to their concluding observations. The Human Rights Council's universal periodic review mechanism could play a key role in remedying such shortcomings.

34. Ms. JANUARY-BARDILL said that the consultations on treaty body reform were extremely valuable and must be pursued. For the time being, there appeared to be consensus on the need to harmonize the existing system, while many had opposed the establishment of a single structure to replace treaty bodies.

35. Given the weaknesses of the current national nomination and selection procedures for members of treaty bodies, she would welcome information on progress made towards improving regional and gender representation in the composition of treaty bodies. She would also be interested to learn of the role of the high-level policy adviser in respect to treaty bodies, should such a post indeed be created. The proposals to forge closer ties with the Human Rights Council were commendable; close cooperation would no doubt enhance the Committee's work, especially with regard to early warning and urgent action.

36. Mr. THORNBERRY said that, while the possibility of preparing joint general comments should certainly be explored, he was unsure of the technicalities of such an approach. The existing practice whereby one treaty body commented as a matter of course on a general recommendation by another treaty body, on the other hand, should be formalized. General recommendations played a key role in standard setting and their harmonization would ensure that a coherent message was sent to States parties.

37. Mr. KJAERUM said that, while he welcomed the proposal to strengthen and coordinate follow-up procedures, additional resources and assistance were required to carry out effective follow-up. It would be counterproductive to raise expectations among those States parties that embraced follow-up procedures and subsequently fail to deliver.

38. He supported the proposals to strengthen interaction with national human rights institutions and to establish a single treaty body to deal with individual communications.

39. Ms. CONNORS (Chief, Treaties and Implementation Unit II, OHCHR) invited the Committee to appoint a representative to the working group tasked to discuss the reform proposals and to the working group on reservations. OHCHR would resubmit the proposals for standardization of terminology, thus giving treaty bodies another opportunity for discussion before they were finalized. In follow-up to the fourth and fifth Inter-Committee Meetings, a round table of national human rights institutions and treaty body experts would be convened in a few months' time in Berlin to discuss options for harmonizing interaction. The harmonization of treaty bodies' approach to NGO participation would be placed on the agenda

of the sixth Inter-Committee Meeting and she encouraged the Committee to formulate recommendations on the issue. A meeting would be held in November 2006 with representatives of specialized agencies, funds and programmes to clarify their role in the reporting process and in the implementation of concluding observations.

40. The informal brainstorming meeting in Malbun had been well attended. While participants had recognized the High Commissioner's concept paper as a valuable contribution to the debate on treaty body reform, opinions had diverged on the proposal to establish a unified standing treaty body to address the challenges to the system outlined in the document. There had been widespread support for the notion of a harmonized and integrated treaty body system and the establishment of a single body to consider individual communications. The High Commissioner had expressed her satisfaction with the outcome of the deliberations, but had noted that more fundamental structural change would be required in the longer term.

41. The issue of transparency in national nomination and selection procedures for candidates for treaty bodies had been raised repeatedly in the past, especially by NGOs. The participants in the Malbun meeting had considered that the possibility of a system whereby open discussions would be held at the national level with candidates should be further explored.

42. One participant had proposed the appointment of a high-level policy adviser on issues relating to treaty bodies. However, resources had already been made available to OHCHR for the creation of three additional posts devoted to treaty body reform and follow-up.

43. Participants had expressed the desire to engage in further dialogue and States parties had shown great interest in the views of treaty bodies. In response, a two-day meeting of chairpersons of treaty bodies and States parties would be convened before the end of 2006.

The meeting rose at 1.15 p.m.