



Fact Sheet No.12, The Committee on the Elimination of Racial Discrimination

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Racial discrimination: the United Nations takes action

"The purposes of the United Nations are . . . to achieve international co-operation . . . in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language and religion . . . " - **Charter of the United Nations (extract from the Preamble)**

"All human beings are born free and equal in dignity and rights. . . " - **Universal Declaration of Human Rights (article 1)**

In one international declaration, covenant and convention after another since the United Nations was founded, States have accepted that all members of the human family have equal and inalienable rights, and have made commitments to assure and defend these rights.

Racial discrimination, nevertheless, remains a stumbling block to the full realization of human rights. In spite of progress in some areas, distinctions, exclusions, restrictions and preferences based on race, colour, descent, national or ethnic origin, continue to create and embitter conflict, and cause untold suffering and loss of life.

The fundamental injustice of racial discrimination, no less than the dangers it represents, has made its elimination a target of action by the United Nations.

Mounting international concern over racial discrimination led the United Nations General Assembly, in 1963, to take the formal step of adopting the Declaration on the Elimination of All Forms of Racial Discrimination which makes four principal points:

Any doctrine of racial differentiation or superiority is scientifically false, morally condemnable, socially unjust and dangerous and has no justification in theory or practice;

Racial discrimination-and more so, government policies based on racial superiority or hatred-violate fundamental human rights, endanger friendly relations among peoples, co-operation among nations, and international peace and security;

Racial discrimination harms not only those who are its objects but also those who practise it;

A world society free of racial segregation and discrimination, factors which create hatred and division, is a fundamental aim of the United Nations.

In 1965, the General Assembly provided the world community with a legal instrument by adopting the International Convention on the Elimination of All Forms of Racial Discrimination. The Convention specifies the measures that States agree to undertake-once they have become parties by ratifying or acceding to it-to eliminate racial discrimination.

Under the Convention, States parties are pledged:

To engage in no act or practice of racial discrimination against individuals, groups of persons or institutions, and to ensure that public authorities and institutions do likewise;

Not to sponsor, defend or support racial discrimination by persons or organizations;

To review government, national and local policies and to amend or repeal laws and regulations which create or perpetuate racial discrimination;

To prohibit and put a stop to racial discrimination by persons, groups and organizations; and

To encourage integrationist or multiracial organizations and movements and other means of eliminating barriers between races, as well as to discourage anything which tends to strengthen racial division.

The Convention came into force in 1969 after 27 States had ratified or acceded to it. At the end of 1990, the Convention had been ratified or acceded to by 128 States-more than three-quarters of the membership of the United Nations. It is the oldest and most widely ratified United Nations human rights convention.

Apart from spelling out the obligations of States parties, the Convention established the [Committee on the Elimination of Racial Discrimination](#). The composition, mandate and work of the Committee are described in this Fact Sheet, which also provides, as an annex, the full text of the Convention and the list of States parties.

A pioneering experience

The Committee on the Elimination of Racial Discrimination (CERD) was the first body created by the United Nations to monitor and review actions by States to fulfil their obligations under a specific human rights agreement.

The Third Committee (social, humanitarian and cultural questions) of the United Nations General Assembly decided to include the establishment of CERD in the Convention on the grounds that without the means of implementation, it would not be truly effective.

This was a precedent. Five other committees with comparable constitutions and functions have since been created: the Human Rights Committee (which has responsibilities under the International Covenant on Civil and Political Rights),⁽¹⁾ the Committee on the Elimination of Discrimination against Women, the Committee against Torture⁽²⁾, the Committee on Economic, Social and Cultural Rights⁽³⁾, and the Committee on the Rights of the Child.⁽⁴⁾

Procedures

The Convention establishes three procedures to make it possible for CERD to review the legal, judicial, administrative and other steps taken by individual States to fulfil their obligations to combat racial discrimination.

The first is the requirement that all States which ratify or accede to the Convention must submit periodic reports to CERD.

A second procedure in the Convention provides for State-to-State complaints.

The third procedure makes it possible for an individual or a group of persons who claim to be victims of racial discrimination to lodge a complaint with CERD against their State. This may only be done if the State concerned is a party to the Convention and has declared that it recognizes the competence of CERD to receive such complaints. This declaration had been made by 14 States by the end of 1990.⁽⁵⁾

The Convention also provides that States which have made the declaration may establish or indicate a national body competent to receive petitions from individuals or groups who claim to be victims of violations of their rights and who have exhausted other local remedies. Only if petitioners fail to obtain satisfaction from the body indicated may they bring the matter to the Committee's attention.

(In the Programme of Action adopted by the Second World Conference to Combat Racism and Racial Discrimination in 1983, States were asked to make access to their national procedures for dealing with complaints of this kind as easy as possible. The procedures should be publicized and victims of racial discrimination should be helped to make use of them. The rules for making complaints should be simple, and complaints should be dealt with promptly. Legal aid should be available for poor victims of discrimination in civil or criminal proceedings and there should be the right to seek reparation for damages suffered.)

Non-Self-Governing Territories

CERD is charged by the Convention to give opinions and make recommendations on petitions to

United Nations bodies from individuals and groups in United Nations Trust Territories and Non-Self Governing Territories who allege racial discrimination. The Committee also gives its views and recommendations on reports provided by other United Nations bodies of legislative, judicial, administrative and other measures to combat racial discrimination in these Territories.

Membership

CERD, in the words of the Convention, is composed of "18 experts of high moral standing and acknowledged impartiality". The members are elected for a term of four years by the States parties to the Convention. Elections take place for half the membership at two-year intervals.

The composition of CERD takes into account a fair representation of the geographical regions of the world, as well as of different civilizations and legal systems.⁽⁶⁾

Autonomy

CERD is an autonomous body. The experts who serve on the Committee are elected in their personal capacity. They can be neither dismissed nor, without their consent, replaced. Under the Convention, they establish their own rules of procedure, and receive no directives from outside. The expenses of Committee members are met by the States parties, not by the United Nations.

The links with the United Nations are, however, clear. The Committee was established under a Convention drafted and adopted by the United Nations. Its secretariat-established in the Centre for Human Rights in Geneva-is provided and paid for by the regular budget of the United Nations. Before any proposal involving expenditure is approved by CERD, the Secretary-General must be consulted. The meetings of the Committee, which were planned to take place twice a year, are usually held at United Nations Headquarters in New York or at the United Nations Office at Geneva.

CERD reports on its activities to the United Nations General Assembly through the Secretary-General, and maintains a dialogue with the Third Committee of the General Assembly. In addition, CERD works in co-operation with the United Nations Trusteeship Council and the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. CERD also has co-operative arrangements with the International Labour Organization and the United Nations Educational, Scientific and Cultural Organization.

CERD at work

States parties are required to submit comprehensive reports to the Committee every four years, with brief updating reports at intervening two-year periods. When a report comes before the Committee for examination, a representative of the country concerned may introduce it, answer questions from the experts, and comment on the observations they make. The Committee's report to the General Assembly summarizes these proceedings, and offers suggestions and recommendations.

Between 1970 and March 1991, CERD received 882 reports including 73 which it had requested in order to obtain additional information.

From the start, the Committee has had to dispel a number of mistaken ideas about the nature and purpose of these reports. It has pointed out that even if the government believes that racial discrimination does not exist in its territory, the country in question, as a State party to the Convention, must submit comprehensive and other periodic reports.

Another misconception is that the State is not obliged to give effect to the Convention if it believes that racial discrimination does not exist in its territory. CERD has indicated that the Convention is addressed not only to present practices but also to problems which may arise in the future, and that in ratifying the Convention, all States parties have undertaken to put its provisions into national law.

Some reports have given the impression that if the Convention has become part of the supreme law of the country, no further legislative action is necessary. However, the Convention requires legislation to make certain acts punishable and also calls for action in the fields of education, culture and information. Similarly, a State party does not fulfil its obligations under the Convention simply by condemning racial discrimination in the Constitution of the country.

In certain cases, reports have focused on legislative action and neglected judicial, administrative and other steps to eliminate racial discrimination, or have failed to include the texts of anti-discrimination laws.

CERD has provided guidelines to the States parties on the preparation of their reports, and has frequently asked them for additional information. The Committee has also made general recommendations to the States parties when it has found that information on specific articles of the Convention useful to the experts in establishing the facts and summarizing their views is broadly lacking.

State-to-State complaints

All the States parties to the Convention recognize the competence of CERD to receive and act on a complaint by one of them that another is not giving effect to the Convention. However, this procedure does not take the place of others which may be available to the parties concerned. So far, no State party has taken advantage of the procedure, which provides-unless the matter has been settled in another way-for the appointment of a conciliation commission.

Individual communications

The procedure for communications from individuals or groups claiming to be the victims of a violation of the Convention to be received by CERD came into operation in 1982 when 10 States parties had declared that they accepted the Committee's competence in this field.

The Committee brings such communications confidentially to the attention of the State party in question, but does not-without their consent-reveal the identity of the individual or group claiming a violation. When the State has given an explanation of its views and perhaps suggested a remedy, the Committee debates the matter and may make suggestions and recommendations, which are transmitted both to the individual or group concerned and to the State party.

Trust and Non-Self-Governing Territories

Since CERD was established many Non-Self-governing Territories, including some administered by States under United Nations trusteeship agreements, have become independent. Nevertheless, there are still 18 such Territories, and when a petition is made on a question of racial discrimination by any of the populations concerned, CERD has the responsibility of studying it and making a report with recommendations to the General Assembly. The Committee also reports generally on problems of racial discrimination in these Territories.

The mandate of the Committee covers all Non-Self-Governing Territories whether the States which administer them are parties to the Convention or not. Three CERD working groups deal, respectively, with the situation in African Territories; the Atlantic Ocean and Caribbean Territories, including Gibraltar; and Pacific and Indian Ocean Territories.

States parties are not obliged by the Convention to report to CERD on racial discrimination questions in the Non-Self-Governing Territories they administer. Thus, the Committee's information comes mainly from reports prepared for or made by the Trusteeship Council, or the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

The Committee has often found itself handicapped in arriving at an understanding of problems of racial discrimination in Non-Self-Governing Territories and in making recommendations for solving them. Many of the reports it receives are primarily concerned with matters other than racial discrimination and the authorities supplying them are not legally bound to adopt or carry out anti-discrimination measures. CERD has repeatedly appealed for more comprehensive information to carry out its responsibilities in this field.

Mobilizing public opinion

A pledge by the States parties to act in the areas of teaching, education, culture and information to combat prejudice and promote understanding, tolerance and friendship among nations and racial or ethnic groups is a feature of the Convention.

The United Nations followed up the International Year for Action to Combat Racism and Racial Discrimination (1971) by instituting, successively, two Decades for Action to Combat Racism and Racial Discrimination (1973-83 and 1983-93). World conferences to Combat Racism and Racial Discrimination were held under United Nations auspices in 1978 and 1983.

As the most widely accepted permanent body created by the United Nations in its efforts to

eliminate racial discrimination, CERD has been closely associated with all these initiatives. It is represented at the seminars and workshops on racial discrimination organized by the Centre for Human Rights.

Studies have been published by the Committee as contributions to the Conferences and Decades. These examine measures designed to eradicate incitement to, and acts of, racial discrimination; teaching, education, culture and information as a means of eliminating racial discrimination; and the Committee's own activities.

The impact

The entering into force of the International Convention on the Elimination of All Forms of Racial Discrimination and the periodic review by CERD over the past 20 years of the reports of action taken by the States parties to fulfil their obligations have had positive results. In various countries these included:

Amendments to national constitutions to include provisions prohibiting racial discrimination;

Systematic reviews of existing laws and regulations to amend those which tend to perpetuate racial discrimination, or the passing of new laws to satisfy the requirements of the Convention;

Amendments to the law at the suggestion of CERD;

Making racial discrimination a punishable offence;

Legal guarantees against discrimination in justice, security, political rights, or access to places intended for use by the general public;

Educational programmes;

Creation of new agencies to deal with problems of racial discrimination and to protect the interests of indigenous groups;

Consulting CERD in advance about planned changes in the law or administrative practices, with the indication that its advice will be taken into account.

The fact that States parties are answerable for their policies on racial discrimination in an international forum serves as a spur to action to bring national law and practices into line with the Convention. Over the years, CERD and the States parties have established a situation of mutual trust; the recommendations and requests the Committee makes are generally given serious consideration.

Problem areas

In keeping racial discrimination permanently on the international agenda, the Committee faces two problems which disrupt its work and make it difficult to carry out its mandate. One is the failure of some States parties to submit periodic reports-or their lateness. Various reasons have been given, including the lack of national staff competent in human rights reporting, and the burden of work in meeting international reporting obligations in an increasing number of human rights areas.

The Committee's view is that reports from States parties are the key element in its monitoring task. The fact that racial discrimination persists and is liable to sudden flareups underlines the need for rigorous and regular monitoring.

The second problem is financial. When CERD was established, it was decided that States parties-not the United Nations regular budget-would assume responsibility for the expenses of members of the Committee. This was one means, it was thought, of safeguarding the independence of the experts. Although the amounts due from individual States parties are small, many are late in meeting their commitment. The gap was bridged up to the end of 1985 through the regular budget of the United Nations, but since then the United Nations has not been able to assist due to the financial difficulties and CERD, which should hold two three-week sessions each year has on several occasions had to shorten or cancel them.

Looking forward

The Committee hopes that the United Nations will focus its efforts on making the International Convention on the Elimination of All Forms of Racial Discrimination universal through the accession of all its Member States. The Committee, for its part, will continue to work towards the universal implementation of the Convention.

A second goal is to increase the number of States which declare that they recognize the competence of CERD to receive and consider communications from individuals or groups which claim to be victims of racial discrimination.

In the immediate future, the Committee believes, States parties should do more in four areas. These are:

The passing of laws which punish the dissemination of ideas based on racial superiority or hatred, and incitement to racial discrimination, as well as acts of violence and assistance to racist activities; and the prohibition of organizations and activities which promote and incite racial discrimination;

Legislation which guarantees the equality of persons before the law, irrespective of their race, colour, national or ethnic origin;

Legislation which assures protection and remedies against acts of racial discrimination;

Action in the fields of education, teaching, culture and information which will combat prejudice, promote understanding, tolerance and friendship, and spread knowledge of the United Nations Charter and international human rights agreements;

A compilation of existing national laws against racial discrimination is being prepared by the Centre for Human Rights and will be published shortly. Model anti-discrimination legislation is also being drawn up. CERD will have a role in deciding how to give these documents the maximum usefulness in countries which are seeking to apply the Convention.

Notes:

1. Fact Sheet in preparation. [[back to the text](#)]
2. See Fact Sheet No.4. [[back to the text](#)]
3. Fact Sheet in preparation. [[back to the text](#)]
4. See Fact Sheet No. 10. [[back to the text](#)]
5. Algeria, Costa Rica, Denmark, Ecuador, France, Hungary, Iceland, Italy, Netherlands, Norway, Peru, Senegal, Sweden, and Uruguay. [[back to the text](#)]
6. Experts serving as members of CERD as of 1 February 1991 were: Mahmoud Aboul-Nasr (Egypt), Hamzat Ahmadu (Nigeria), Michael Parker Banton (United Kingdom), Eduardo Ferrero Costa (Peru), Isi Foighel (Denmark), Ivan Garvalov (Bulgaria), Rdgis de Gouttes (France), George O. Lamptey (Ghana), Carlos Lechuga Hevia (Cuba), Iouri A. Reshetov (USSR), Jorge Rhenan Segura (Costa Rica), Shanti Sadiq Ali (India), Agha Shahi (Pakistan), Michael E. Sherifis (Cyprus), Song Shuhua (China), Kasimir Vidas (Yugoslavia), Riidiger Wolfrum (Federal Republic of Germany) and Mario Jorge Yutzis (Argentina). [[back to the text](#)]

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