

TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION 71ST SESSION, 30 JULY – 17 AUGUST 2007 OVERVIEW OF THE SESSION

Introduction.....	1
Main themes and issues of the session.....	1
Costa Rica.....	2
Democratic Republic of the Congo.....	2
Indonesia.....	2
Kyrgyzstan.....	3
Mozambique.....	3
New Zealand.....	3
Republic of Korea.....	4
Discussion with the Special Rapporteur on freedom of religion or belief, Ms Asma Jahangir.....	4

Introduction

The Committee on the Elimination of Racial Discrimination (the Committee) held its 71st session in Geneva, 30 July – 17 August 2007. It considered the periodic State Party reports of Costa Rica, the Democratic Republic of the Congo, Indonesia, Kyrgyzstan, Mozambique, New Zealand and the Republic of Korea under the *International Convention on the Elimination of All Forms of Racial Discrimination* (the Convention). The Committee also held a dialogue with the Special Rapporteur on freedom of religion or belief, Ms Asma Jahangir, at the session.

Main themes and issues of the session

The main themes and issues of the session were: the status of the Convention in national law; the application of the Convention to women, gender, migrants, refugees, non-citizens, indigenous peoples, minorities, and trafficking in persons; the role of national human rights institutions in countering racial discrimination; interethnic conflicts; and the impact of racial discrimination upon the rights to education, employment, housing, health and land.

Costa Rica - 17th and 18th periodic reports

Both the Committee and the Costa Rican delegation welcomed the constructive and broad discussion held during the examination of Costa Rica's combined 17th and 18th periodic reports. The Committee also praised Costa Rica for the timely submission of its reports. The examination mainly focused on Costa Rica's indigenous population and the situation of Afro-Costa Ricans, refugees and migrants.

Other issues addressed by the Committee included: the status of the Convention in domestic law; indigenous access to education and health care and indigenous land ownership; Afro-Costa Rican employment levels; and trafficking in persons.

The non-governmental organisation (NGO) Mesa Nacional Indígena submitted two parallel reports to the Committee. Costa Rica is to submit its combined 19th, 20th and 21st periodic reports to the Committee by 4 January 2010.

Democratic Republic of the Congo - 11th – 15th periodic reports

The Committee welcomed the resumption of its dialogue with the Democratic Republic of the Congo (DRC) after an absence of ten years due to civil war and the absence of an established government in the DRC. In examining the 11th – 15th periodic reports of the State Party, the Committee expressed particular concern at the lack of recognition of minorities and indigenous persons (including Pygmies), and the constitutional block on DRC nationals from holding other nationalities. It also pressed it if a national human rights institution were to be established in the DRC, that institution must conform with the *Principles relating to the Status of National Institutions* (the Paris Principles).

Discussion during the examination also focused on: the status of the Convention in domestic law and the DRC's legislative efforts to eliminate racial discrimination; interethnic conflicts in the DRC; education and language; and trafficking in persons.

The Forest People's Programme was the only NGO to submit a parallel report to the Committee.

The DRC is to submit its combined 16th, 17th and 18th periodic reports to the Committee by 21 May 2011.

Indonesia - Initial - 3rd periodic reports

The examination of the Indonesia's initial - 3rd period reports was limited in part by Indonesia's insistence that its domestic laws, which it argued upheld the principle of non-discrimination, were evidence enough of Indonesia's compliance with the Convention. Issues of particular concern to the Committee included the treatment of Indonesia's ethnic Chinese minority, and the impact of the construction of a 1.8 million hectare palm oil 'mega-project' in Kalimantan province on the resident indigenous peoples.

Other areas of examination were: the incorporation of the Convention into national law; the strict laws governing the granting of Indonesian citizenship; Indonesia's treatment of refugees and asylum-seekers; the ethnic conflict in Central Kalimantan; and the land rights and standard of living of Indonesia's indigenous populations.

In its concluding observations, the Committee asked Indonesia to provide within one year updated information on the steps that it has taken to: ensure that the construction of the Kalimantan palm oil project is consistent with the rights of indigenous persons; promote awareness of the abolition of *Surat Bukti Kewarganegaraan Republik Indonesia*, a law which had required Indonesian citizens of ethnic Chinese origin

to obtain proof of their Indonesian citizenship; and to reinforce the independence of Komnas-HAM, Indonesia's national human rights institution, as well as steps taken to guarantee the legislative immunity of its members and staff in the exercise of their duties. Indonesia is to submit its combined 4th, 5th and 6th periodic reports to the Committee by 25 July 2010.

Parallel reports were submitted to the Committee by NGOs that included the Asian Indigenous and Tribal People's Network, Human Rights Watch and a coalition of 13 NGOs that addressed the Kalimantan palm oil project.

Kyrgyzstan - 2nd – 4th periodic reports

The Committee welcomed its positive and constructive dialogue with the Kyrgyzstan delegation during the examination of the State Party's 2nd – 4th periodic reports. The Committee's main interests included the clashes between Kyrgyz and Dungan people in Iskra in Kyrgyzstan's south in February 2006; and the treatment of refugees and asylum seekers, including the Uighur minority from China, and an incident in which four Uzbeks were extradited from Kyrgyzstan to Uzbekistan in 2006.

Other issues addressed in the examination included the implementation of the Convention in Kyrgyz law, the establishment of the Kyrgyz Human Rights Commission and Ombudsman, the equal treatment of citizens and non-citizens, access to education, and the state of the Kyrgyz economy.

No NGO parallel reports were submitted to the Committee. Kyrgyzstan is to submit its combined 5th, 6th and 7th periodic reports to the Committee by 4 October 2010.

Mozambique - 2nd – 12th periodic reports

The Committee welcomed the resumption of its dialogue with Mozambique after an absence of more than 20 years on account of successive wars in the country. In examining the State Party's 2nd – 12th periodic reports the Committee lamented, however, that many of its questions had gone unanswered. The main issues addressed by the Committee were the rights of non-citizens, the treatment of refugees in Mozambique, and the necessity that Mozambique's national human rights commission conform to the Paris Principles.

Other issues addressed by the Committee included: the implementation of the Convention in national law; the treatment of minorities and foreigners; the universality of access to health care, with particular regard to HIV/AIDS; gender equality; access to justice and education; and reports of the trafficking in human organs, particularly children's organs, in the Manica and Goba provinces of Mozambique.

In its concluding observations, the Committee asked Mozambique to provide within one year updated information on: the steps that it has taken to ensure that the actions of traditional authorities, and customary laws, are in conformity with the provisions of the Convention; the resources, independence, competence and activities of the 'Provedor de Justicia' (Ombudsman established under Mozambique's Constitution) and its national human rights institution; and the measures it has taken to prevent and combat xenophobia and racial prejudice, particularly in the fields of employment and access to services.

Mozambique is to submit its combined 13th and 14th periodic reports to the Committee by 18 May 2010.

New Zealand - 15th – 17th periodic reports

The Committee expressed satisfaction at its constructive and comprehensive exchange with New Zealand during the examination of the State Party's 15th – 17th periodic reports. The examination was dominated by consideration of the situation of New Zealand's Maori peoples, particularly their access to healthcare and

education, the impact of the *Foreshore and Seabed Act 2004* on Maori customary title to land, and the status of the *Treaty of Waitangi* in national law.

Other issues addressed in the examination included: the implementation of the Convention in national law; immigration and the rights of migrants, refugees and asylum-seekers with regard to the *Immigration Act 1987*; the broad economic inequalities faced by Pacific peoples; and the obstacles confronting women from ethnic minorities in New Zealand, including lack of social participation and higher than average levels of unemployment and domestic violence.

Parallel reports were submitted to the Committee by NGOs that included Action for Children and Youth Aotearoa, AIR Trust, the Human Rights Foundation, the Maori Party, Peace Movement Aotearoa, Treaty Tribes Coalition, and submissions from a collective of iwi Māori/indigenous peoples' authorities in Tai Tokerau.

New Zealand is to submit its combined 18th, 19th and 20th periodic reports to the Committee by 22 December 2011.

Republic of Korea - 13th and 14th periodic reports

The Committee's examination of the 13th and 14th periodic reports of the Republic of Korea focused mostly on the Republic of Korea's treatment of migrant workers and non-citizens, with particular regard to employment, equal working conditions, and the right of migrant workers to form trade unions. The Committee welcomed the Republic of Korea's comprehensive and cooperative approach to dialogue and its human rights improvements since last appearing before the Committee.

The examination also addressed: the status of the Convention in national law; the integration of naturalisation of foreigners, including the timeframe for the implementation of the *Basic Act on the Treatment of Foreigners in Korea*; the implementation of the Republic of Korea's National Action Plan for the Promotion and Protection of Human Rights; and the symbolic impact of the distinction made between 'pure blood' and 'mixed blood' Koreans.

MINBYUN-Lawyers for a Democratic Society and the National Human Rights Commission of Korea submitted parallel reports to the Committee.

In its concluding observations, the Committee asked the Republic of Korea to within one year: provide an English translation of the *Basic Act on the Treatment of Foreigners in Korea*, as well as detailed information on its implementation; introduce further measures to prohibit and eliminate all forms of discrimination against foreigners, including migrant workers and children born from inter-ethnic unions; adopt specific legislative measures to prohibit and punish racially motivated criminal offences and to expedite its drafting and adoption of a Discrimination Prohibition Act; and to adopt appropriate measures to strengthen the protection of the rights of foreign female spouses and to regulate the activities of international marriage agencies.

The Republic of Korea is to submit its combined 15th and 16th periodic reports to the Committee by 4 January 2010.

Discussion with the Special Rapporteur on freedom of religion or belief, Ms Asma Jahangir

During the session the Committee also held a discussion with the Special Rapporteur on freedom of religion or belief, Ms Asma Jahangir, to discuss areas of overlap between the mandates of the Committee and the Special Rapporteur and to identify the steps that should be taken to enhance the protection of persons and groups experiencing discrimination.

Issues discussed included: the ‘intersectionality’ between race and religion; the limitation of the Committee’s mandate to matters of racial rather than religious discrimination; Islamophobia; the use of racial profiling by States as a counter-terrorism measure; and the inseparability of religion from land for many indigenous peoples.

Ms Jahangir, placing particular emphasis on equal opportunity for women, also pressed the importance of granting equal rights to all religions and to the individuals within these religions.

Last revised and updated: 30 October 2007.

TREATY BODY MONITOR STAFF

Gareth Sweeney, Deputy Manager, Geneva
Eléonore Dziurzynski, Communications Officer, Geneva
Michelle Evans, Representative to the UN, New York
Michael Ineichen, Human Rights Officer, Geneva
Benjamin Lee, Human Rights Officer, Geneva

AUTHOR OF THE OVERVIEW REPORT

Benjamin Lee, Human Rights Officer, Geneva

ABOUT THE PUBLICATION

The *Treaty Body Monitor* forms part of the Human Rights Monitor Series produced by ISHR. It reports on each country reviewed by the six treaty bodies (all but the Committee on the Rights of the Child) and provides an overview of every treaty body session. It is currently an online publication that can be found at <http://www.ishr.ch/hrm/TMBs>.

COMMENTS AND FURTHER INFORMATION

We would welcome your feedback on this publication so please send any comments and suggestions to information@ishr.ch. You can check the latest Treaty Body Monitor reports published on <http://www.ishr.ch/hrm/TMBs>.

COPYRIGHT AND DISTRIBUTION

Copyright © 2007 International Service for Human Rights

Material from this publication may be reproduced for training, teaching or other non-commercial purposes as long as ISHR is fully acknowledged. You can also distribute this publication and link to it from your website as long as ISHR is fully acknowledged as the source. No part of this publication may be reproduced for any commercial purpose without the prior express permission of the copyright holders.

DISCLAIMER

While every effort has been made to ensure the accuracy and reliability of the information contained in this publication, ISHR does not guarantee, and accepts no legal liability whatsoever arising from any possible mistakes in the information reported on or any use of this publication. We are however happy to correct any errors you may come across so please notify information@ishr.ch.