

International Movement Against all Forms of Discrimination and Racism (IMADR)

**71st Session of the UN Committee
on the Elimination of Racial Discrimination
30th July – 17th August 2007-09-27**

Report

Sarah Hollier and Thomas Orrell, Interns IMADR-UN Office

Introduction	Page 2
Homogeneity and Multiculturalism	Page 3
Indigenous/Tribal Peoples and Land Rights	Page 4
Migrants and Refugees	Page 6
Human Trafficking	Page 8
Special Measures	Page 10
Legal Issues	Page 12
Doctrinal Issues, External Representative Meetings and Procedures	Page 12
Presentation by the Deputy High Commissioner for Human Rights	Page 12
Statement by ILO Representative	Page 13
Statement by Representative from the Anti-Discrimination Unit	Page 13
Presentation by the Special Rapporteur on Freedom of Religion and Belief	Page 14
Meeting with States Parties	Page 14
Procedural Matters	Page 15
Next Session	Page 16
Links to State Reports, Lists of Issues, Concluding Observations, Letters and NGO information for each State Party	Page 17

Introduction

The Committee on the Elimination of Racial Discrimination (CERD) met for its 71st Session from 30th of July to 17th of August 2007. Consideration of the periodic reports from Costa Rica, New Zealand, Kyrgyzstan, Mozambique, the Democratic Republic of Congo (DRC), the Republic of Indonesia, (who submitted their first report under the convention), and the Republic of Korea were on the agenda. Also discussed, in closed meetings, were countries under the review procedure, early warning and urgent action procedures and follow up procedures. Five countries are to receive letters under the Committee's review procedure, which addresses states whose reports are 5 years or more overdue. The review is based on the last report submitted by the State Party, although in the absence of initial and follow-up reports, the Committee may base their review on reports submitted to other human rights bodies. These countries are Ethiopia, China, Guyana, Lithuania, and Azerbaijan. The latter two are to receive letters on the basis of follow up reports. Complaints were considered under early warning and urgent action against, Belize, Brazil, Nicaragua, the Philippines, Peru and Chile.

There were many other matters before the Committee at this session, including dialogue with representatives of the International Labour Organisation, the Coordinator of the National Institutions Unit of the Office of the High Commissioner for Human Rights (OHCHR), and UN Special Rapporteur on Freedom of Religion or Belief Ms. Asma Jahangir. There was a briefing on follow up on the Durban Declaration and Programme of Action by Mr. Jose Dougan Beaca, Head of the Anti-Discrimination Unit of the OHCHR. In relation to the Durban Review Conference, the Committee emphasized its interest in participating in the Preparatory Committee, and two members were appointed to participate in the Intergovernmental Working Group on the implementation of the Durban Plan of Action, which will be held in September 2007. Also, for the second time, the Committee held open dialogues with state parties, which are viewed as productive and informative, particularly in light of the ongoing discussions on working methods, reporting guidelines, treaty body reform and the relationship between treaty bodies and the Human Rights Council (HRC). The Committee spent a great deal of time in both open and closed sessions discussing these matters, as well as the Universal Periodic Review process. The final day of the Session saw Committee Rapporteur Mr. Patrick Thornberry present the Committee report for submission to the General Assembly. After a few minor changes, the report was adopted.

It must be mentioned that a number of NGO briefings were given before CERD and that their quality was outstanding. NGO briefings are a useful tool for CERD as they provide an external source of information and an alternative perspective from that of the State, thus allowing the panel of experts to formulate questions from multiple sources of information and additionally incorporate the ideas and queries of civil society into their dialogue with States Parties. Additionally, NGO briefings can be used as a tool by civil society to request an initiation of CERD's early-warning or urgent-action procedures.

Throughout the Session, a number of themes kept re-emerging within dialogues with States Parties. Among these themes, the rights of indigenous and tribal peoples

(especially in relation to customary land law), immigrants' and refugees' rights and the issue of trafficking of children and women were the most pertinent. In legal terms, the concept and application of Special Measures emerged repeatedly, with members of the Committee calling for a General Recommendation to be drafted in this regard.

During this session, National Human Rights Institutions from Indonesia and New Zealand were present to give independent reports before the Committee. This was seen by the Committee as a positive step forward for greater communication between governments, their independent human rights bodies, and civil society. This approach was further reiterated by the Committee, which amended its rules of procedure to incorporate the right of these bodies, formally accredited to the HRC and with permission from the State Party, to formally address the Committee during open review of the state party report.

Homogeneity and Multiculturalism

Debates on multiculturalism as compared to homogeneity, as guiding principles and dominating structures of society, were frequent. Dialogue with Korea was dominated by this issue, and to a significant extent, debate with the Democratic Republic of Congo was also concerned with the topic, but on a different basis. The context in which the issue emerged differ significantly: In Korea, the problem is a result of discrimination against immigrants, and in the DRC, it is a result of the lack of recognition of indigenous peoples. However, in essence, it is the same debate.

Korea

During dialogue with Korea, debate arose over the use of the term “pure-blood” as opposed to “mixed-blood” in the State Report. Chairman De Gouttes commented that it had been a while since CERD had had a debate of such depth that took the Committee beyond law and down to the basic essential doctrine of ICERD. The State Delegation explained that the concept of “mixed-blood” is a new one, which has evolved out of the diversification of Korean society, resulting in a growing number of mixed-origin children—the so-called mixed-bloods. The terminology used in the State Party’s report brought comments from virtually all members of the Committee. Concern was expressed by Mr Thornberry that if there is a concept of “pure” blood then this denotes the concept of “impure” blood which comes close to the assertion of racial superiority. Mr. Yutzis commented that being pure-blooded was a principle. Any principle that speaks of purity of an ethnic group can easily lose track of the truth and lead to racist theory. He asked how the state managed the symbolism connected with its own historical identity. Additionally, he stated that encouraging discrimination is something that is easily overlooked if it is illegal. Social anthropology today speaks of hybrid cultures; this must be taken into account particularly in the age of globalisation. He recommended that Korea adopt a multi-disciplinary approach to draw up a plan to tackle the issue.

The Democratic Republic of Congo

In the context of the DRC, the problem relating to homogeneity was founded on different premises. Unlike Korea, the debate did not arise out of a problem with terminology resulting from discrimination against immigrants, but from a lack on the DRC's behalf to acknowledge that the Pygmy population of the Congo are “indigenous people”.

The DRC does not recognise Pygmies as an indigenous people, nor do they recognise the political concept of a minority. In the DRC, minorities are classified in numerical terms, not in political ones. This causes serious problems for the Pygmies, who are finding it very difficult to use the international mechanisms available to them as indigenous people since the state does not recognise their special needs. Additionally, this causes problems as it fails to acknowledge the plurality of society. Mr. Thornberry brought up an interesting and important issue in this regard. He iterated that the concept of indigenous people is not just a term but a framework. If peoples consider themselves indigenous and can legitimately claim to be so, subject to international standards in this respect, then they are eligible to use the international mechanisms available to indigenous peoples. The concept, therefore, is not just definitive but mechanical, and constitutes a tool through which marginalised peoples can better their situation. Another problem resulting from the DRC's approach is that the government does not accurately represent the diversity of society. The definition of Congolese nationality does not help in this respect either, as it was called too ‘exclusive’ by members of the Committee. The State Delegation argued that the DRC was just now emerging out of a period of prolonged conflict and that in the future things may change, however, at present this is the situation and it is unlikely to change in the coming months.

Indigenous/Tribal Peoples and Land Rights

The issue of indigenous and tribal peoples' rights emerged as an issue with almost all States Parties, with the exceptions of Korea and Kyrgyzstan. States approach the question of indigenous and tribal peoples' rights in many different ways. Within the context of countries examined at the 71st Session, the DRC and New Zealand were two countries whose dialogue was dominated by discussion on indigenous rights. Dialogue with Indonesia also raised the issue of indigenous peoples rights, but in the context of development—an important issue in the context of an ever faster globalising world. In stark contrast to both New Zealand and the DRC's approach, Mozambique provided a positive alternative to exclusion and marginalisation of indigenous and tribal peoples from society. It is also important to point out that a number of CERD members, including Mr. Yutzis, Mr. Amir and Mr. Thornberry, highlighted the spiritual importance and link between indigenous peoples and their land.

The DRC

Numerous members of the Committee commented on the issue of Pygmy rights in the DRC, quite often in the context of the 2002 Land Code. The land laws in the DRC do not recognise private or communal ownership of land: All land belongs to the state and is subject to concession by the state, which can delegate who uses it and how it is used. The State Delegation did comment that land can be used by the peoples living and farming on

it but it is also subject to concession to commercial interests wishing to exploit the land for logging and mining. This approach to indigenous land rights was deemed incompatible with ICERD by the Committee, and with international standards on indigenous peoples' rights.

New Zealand: Waitangi and the Maori/Crown Relationship

The Treaty of Waitangi is seen by both the Crown (New Zealand Central Government) and the Maori as the founding constitution of New Zealand. It is composed of three short and concise articles. In brief they are:

1. Acknowledgement of the Crowns right to govern;
2. Recognition of Maori Tribal Authority;
3. The recognition of the Maoris right to be citizens of New Zealand.

The State Delegation highlighted the fact that the principles outlined in the Treaty are the most important things about it. It is the essence of modern New Zealand society. The three articles lay down the framework in which the Crown/Maori relationship has developed. In terms of the legal status of the Treaty, it is the founding Constitutional document but is not enforceable as a legal document. When its provisions are incorporated into statute, then it is granted legal force. In 2006, the government passed the Principles of the Treaty of Waitangi Deletion Bill (2006), which would in effect remove statutory references to the Treaty of Waitangi, thus removing the fragile legal authority it possesses. The law is highly unpopular among Maori groups who are concerned that it will effectively nullify the founding principles of modern New Zealand. The Committee also commented on this law, believing that it poses a serious threat to the Crown/Maori relationship.

Concern was also expressed by the Committee, largely as a result of the NGO briefing on New Zealand, on the Foreshore and Seabed Act of 2004. The previous Concluding Observations of CERD to New Zealand; dealing with the Foreshore and Seabed Act of 2004, had been rejected by the New Zealand Government. The Government has not amended the Act as CERD requested, nor has it consulted with the Maori as to its future.

Indonesia

There are plans to build a 1.8 million hectare palm plantation on the island of Kalimantan, along the border with Malaysia. This plan threatens the survival of the local indigenous populations. The plan, if implemented, will impact 1.5 million peoples' lives and force the relocation of 300,000 people. It was commented, by representatives of civil society, that this is a grave human rights violation being conducted by trans-national corporations and the State. The loss of land is the loss of culture for these people. At present, 500 cases of indigenous peoples being expropriated from their land are being examined. This plan impacts all aspects of human rights.

In addition to the proposed plans, the local indigenous populations do not have access to land courts to present their case, as land laws do not recognise indigenous peoples' claims to land. This is because of a clause in the law stating that indigenous peoples must first prove they are indigenous before they can take cases to courts. Therefore, it is the government that ultimately defines who is indigenous, and not the peoples themselves.

The Indonesian government, although recognising the diversity of Indonesian society and the existence of indigenous and tribal peoples, is not living up to its international obligations in terms of how its land laws work in recognising communal, customary and traditional ownership and use of land. The State Delegation commented that, unfortunately, if Indonesia is to compete in an ever-globalising world, all sections of the population will have to make sacrifices for the national interest. The Committee acknowledged this but iterated that this was no excuse for gross violations of human rights.

Mozambique

Mozambique's legal system is based on the concepts of free access to the courts for all citizens, the right to a defence, and the right to legal aid. Of particular interest and significance is the phenomenon of Community Courts.

Mozambique recognises the importance of customary law in local and traditional communities and also formally recognises the legal status of tribal and community leaders as mediators in their local communities. Community Courts, based on customary law, are established as low-level courts in which cases which do not hold penal sentences can be dealt with, with the participation of local leaders as mediators. If the judgement of this court is not satisfactory to either the prosecution or defence, then they have the right of appeal to a formal national court.

Community Courts are particularly important as Mozambique's land law recognises the legitimacy of Community Courts in resolving land issues. Additionally, although the concept of 'indigenusness' is not recognised as such by the Government, in terms of land holding in local communities, communal ownership of land is recognised and based on joint ownership. Communities and individuals have the right to be consulted on matters affecting their localities, and if they have a problem, the Community Courts are a mechanism through which they can access the system. This system was highly praised by members of the Committee with one Committee member commenting that this system brings justice back down to the grassroots.

Migrants and Refugees

The issue of refugees' and immigrants' rights emerged as a recurring issue throughout the Session. Korea and Kyrgyzstan stand out as examples of how CERD addresses such issues.

Kyrgyzstan: Refugees and Ethnic Minorities

In terms of Kyrgyzstan, an issue of concern for the Committee was the situation of Uzbek refugees. A debate arose over the fate of four Uzbek refugees who had been deported. In response to a request for more information, the state delegation stated that there had been a request of the Prosecutors Office of Kyrgyzstan by Uzbekistan, that these four citizens be returned, as they had carried out serious crimes. Before making this decision, the Prosecutors Office took time to study and undergo visits to Uzbekistan to analyze the case that was being made against them. The delegation stressed that they had complied with all aspects of international law in this regard. Nevertheless, Mr Sicilianos noted that information put before the Committee suggested that discrimination continues against Chinese and Uzbek refugees, and that continued extradition, disappearances and abductions were still taking place.

Representatives from NGO's raised the issue of minority representation in Government and also of education in ethnic minority languages and culture. Ethnic minorities are underrepresented within government bodies and institutions. Additionally, there is no special State policy on employment, and each government ministry and organisation recruits staff on different criteria. The Uzbek community, in recent years, has managed to draw attention of the public to the fact that they are underrepresented in governmental bodies.

In terms of education, schools teach in four languages, these are: Russian, Kyrgyz, Tajik and Uzbek. All schools have problems with staff and resources, particularly when it comes to Tajik books. Additionally, school curricula do not include any classes on the culture and history of minorities, nor is this information provided in state history textbooks. They are too ethno-centric.

Korea

Mr. Kemal, the Country Rapporteur, congratulated the State Party in the efforts it was making to improve the status and rights available to migrant workers and also to refugees. He commented specifically on the fact that the criteria for obtaining refugee status had been relaxed by the State Party. However, he, among others, highlighted various issues that are still continuing to be problematic within Korean society.

The debate over the terminology of "mixed blood" was introduced earlier. The delegation stated that Korea had been a homogeneous society until the 1980s. Only when immigration really became an issue did the concept of mixed-bloodedness become apparent. The delegation further explained that the terminology in the state report was not an attempt to express government support for the concept, but rather, was a direct translation of the wording used in the Korean language. The delegation insisted that it was not condoning the concept, rather, just highlighting it. Mr. Kemal, whilst commending Korea on efforts being made to ease the granting of refugee status, suggested that it was in Korea's interests to allow immigrants to enter the country. Further, Korea's economic boom could benefit greatly from influxes of economic migrants.

Mr. Kjaerum asked the delegation why a group of about 25,000 ethnic Chinese, who could trace their ancestry back 120 years in Korea, had not been naturalised. Questions were also asked as to what criteria are being used by the State Party to decide what countries to accept immigrants from. Mr. Kemal pointed out that Korea, which has a very low birth rate, could benefit greatly from immigration, both in economic terms and also in terms of helping eliminate social discrimination. Mr. Avtonomov commented on the recent fire at an immigrant detention facility that left ten people dead. He wanted to know what measures had been taken to compensate victims' families and to prosecute the people responsible.

The State Party commented that the 25,000 Chinese could obtain Korean nationality if they so wanted, however, it was likely that they wanted to retain their Chinese culture and history. The Delegation highlighted the fact that although these people had not obtained Korean nationality, they were not discriminated against. In terms of the criteria used to decide what countries to accept immigrants from, the Delegation commented that this was done on a basis of what skills were needed. Additionally, employers' opinions were taken into account. They pointed out that it was not done on a basis of racism. Finally, in relation to Mr. Avtonomov's question on the detention facility, the State Party commented that about US \$100,000 had been provided to each of the families of the victims, that people injured by the accident were also compensated and allowed to remain in Korea to receive medical treatment, and that the culprits had been prosecuted and several sentenced to terms in jail.

Mr. Avtonomov also commented on the three-year work permit system, which allows foreign immigrants to work in Korea for three years before they have to leave the country. He commented that this timeframe was not very long and did not really allow foreigners to save up much money when taking into consideration the costs of returning to their countries of origin. The Delegation commented that the law in question was under review with the view of changing the time necessary for foreigners to be out the country before they can re-apply for entry. Hopefully, the time period will be reduced to one month.

Human Trafficking

The issue of human trafficking was raised many a time within the contexts of many different countries. Mozambique, Korea and Costa Rica all addressed problems related to trafficking during dialogue. Expert, Mr. Kjaerum, commented that human trafficking was an exceptionally serious issue that amounted to modern-day slavery, an ever-increasing phenomenon that must be tackled effectively.

Mozambique

Mr. Ewomsan, the Country Rapporteur, stated that Mozambique is an organ trafficking centre and a place where children are trafficked for forced labour and prostitution. Mr. Kjaerum raised the issue of the trafficking of Zimbabwean children who, on entering the country alone, are particularly vulnerable due to their illegal status. They are severely

limited in their access to education and medical care. They are also the most vulnerable when it comes to being forced into the sex industry.

Mr. Kjaerum also added that in 2006 Mozambique ratified the UN Convention on Transnational Organised Crime and also all the Optional Protocols. However, it has yet to implement any of the provisions. Every month, up to a hundred children are trafficked along the border. Additionally, women are trafficked out of Mozambique and sold to miners in Johannesburg, South Africa.

In response to these allegations, the State stated that this is a serious issue, which concerns the whole country. The Council of Ministers started drafting a law on this. It has been adopted and has now been deposited for approval. In general terms, the law addresses coercion and the abuse of power by adults, including parents, and contains provisions for the prevention and punishment of those involved, including seizure of assets and revenues gained from trafficking. It also provides for the protection and assistance of victims and is consistent with the definition of trafficking as in the UN Protocol relating to prevention and punishment.

The State Party is also establishing provisions to help deal with the victims of trafficking. In this respect, two centres are being built to help deal with the victims of trafficking.

In terms of organ trafficking, the Country Rapporteur and Mr. Kjaerum again expressed concerns. Mr. Ewomsan made a plea for more information regarding this matter, as children are being murdered for their organs to be used in traditional medicine. The state responded by iterating that the all relevant governmental bodies were dealing with the issue. Civil society is also involved. There is a draft law on the issue that is rich in content and also in line with the Protocol on Trafficking.

Korea

Korea was another country in which the issue of trafficking was brought up. It was asked why visas were no longer given to foreign dancers coming to work in the country but were given to singers who would be working in the same clubs, usually as victims of sex trafficking. Mr. Lindgren commented that this was a policy of punishing the victim and not the culprit. The Korean Delegation stated that it is very difficult for the government to work out who is coming into the country to genuinely work and who is a victim of trafficking. The Committee commented that more could be done by the State to prevent widespread abuse of women who are victims of trafficking.

Costa Rica

Costa Rica was open about the problems that they face and highlighted many initiatives in place to help combat trafficking; including information leaflets aimed at the most vulnerable groups that posted in all public access areas, and the targeting of businesses, with posters being placed in offices and other private sector areas.

Indonesia

During dialogue with Indonesia, experts raised questions in relation to sexual tourism in Indonesia. These questions addressed issues pertaining to the well-documented knowledge that Indonesia, as with other parts of Asia, is a popular tourist destination, which, unfortunately, also attracts paedophiles and other sexual predators. Mr Amir noted that some of the most vulnerable live in the tourist areas but are not viewed as such by those tourists who travel with a different purpose. Concern was expressed as to how these matters were being addressed, with the Delegation highlighting several measures that have been implemented to combat trafficking and the commercial sexual exploitation of women and children, including a law introduced in 2002 on child protection.

Other Issues

Special Measures

The issue of Special Measures (or affirmative action) was a legal one, which was discussed through widely varying perspectives within the different contexts of different countries. New Zealand and the DRC represent two contrasting examples of how the Committee confronted the issue of Special Measures. It was generally and indirectly agreed by members of the Committee that Special Measures are a necessity. However, they can be abused by either being used to replace permanent rights, or not used enough to provide extra temporary rights for peoples needing them. These revelations led to several CERD Experts to comment on the possibility of a General Recommendation on the use of Special Measures to help States understand their intended nature and the premises of proper use and implementation.

New Zealand

A number of Committee experts, including Mr. Pillai, Mr. Thornberry and Mr. Kemal, raised the issue of the temporary nature of special measures to the New Zealand delegation, in response to the extensive section on Special Measures in the State Report, and also because of complaints by NGOs that Special Measures were being used as an excuse by the State to not have to embed minority and indigenous rights within the legal framework permanently.

Country Rapporteur, Mr. Sicilianos, also commented on the nature of temporary measures in his opening presentation. He stated that special measures should not be seen as a privilege or positive discrimination as this is misleading. They should be objectified on a rational basis. He recommended that the New Zealand government reconsider its definition of Special Measures.

Mr. Pillai commented that Special Measures must not be seen as a purely legal issue: The law must be an instrument to rectify social disparities. Mr. Thornberry expanded on this and added that putting too much into the section on Special Measures and not distinguishing it from permanent measures may contribute to the fragility of the Waitangi

Treaty. Mr. Kemal bluntly stated that the rights of minorities cannot be considered temporary. He added that, although certain benefits can be considered temporary and can cease once minorities have attained a certain level, the rights of peoples are constant.

The State Delegation responded by stating that in New Zealand, treaty measures are not seen as special measures. New Zealand makes sure that ICERD is taken seriously and implemented. The State Delegation did not really go into any more detail on this issue despite Mr. Thornberry among others re-raising the issue on the second day of dialogue.

The DRC

One of the most mentioned issues was that of the exclusive nature of Congolese nationality and the lack of a definition of racial discrimination within DRC law. Ms. Dah brought up both issues and clarified that DRC legislation does not have a definition of racial discrimination similar to that prescribed in Article 1 of ICERD. The State Delegation replied that there was no need for a definition, as equality is enshrined within the law and that this is sufficient protection.

Several CERD experts commented on the nature of Congolese nationality, among them, Ms. Dah, Mr. Valencia Rodriguez and Mr. Lindgren Alves. It was mentioned that the recent Nationality Law gives a very exclusive definition of Congolese nationality. This causes serious problems in the electoral process and also marginalises large parts of the population which live in remote areas, including the Pygmies. Mr. Lindgren Alves commented that some community groups are not happy with the nature of Congolese nationality as it does not recognise their identity.

As a result of the understanding by the Committee that the DRC was not going to acknowledge its Pygmy population as indigenous because of its exclusive definition of nationality, the Committee, headed by Mr. Thornberry in this regard, urged the State to consider the use of affirmative action, Special Measures, as a mechanism to help balance out the social and political disparities existent between the Pygmy population of the Congo and other sections of the population.

It was mentioned by NGO's that in terms of distinction, nobody is claiming that indigenous peoples are the only people dependent on the forests. However, indigenous peoples suffer more because of their special relationship to nature and their conditions of life. When this information is taken into account, it is reasonable to conclude that Special Measures could indeed be a mechanism through which the Congolese government could help improve the situation of its Pygmy population.

The DRC's government however, stipulating that it is an extremely ethnically diverse country with hundreds of different tribes, was of the opinion that Special Measures were not realistically possible in the Congo given this diversity of ethnicity. The disagreement remained unresolved at the end of the dialogue with the DRC.

Legal Issues

The implementation of penal legislation was discussed with the majority of state parties presenting reports. In particular, it was noted with concern by the Committee that in Costa Rica, racial discrimination is still viewed as a minor offence and only punishable by a fine, whilst in Kyrgyzstan, provisions exist in domestic law to address racial discrimination but do not appear to be implemented in the courts. The Committee welcomed the commencement of harmonisation between the domestic laws of Indonesia and International Human Rights Instruments through the implementation of its Second National Plan of Action 2004 – 2009.

Other Business

Doctrinal Issues, External Representative Meetings and Procedure

Presentation by the Deputy High Commissioner for Human Rights: Ms. Kang

Ms. Kang, the Deputy High Commissioner for Human Rights, gave a presentation to CERD on developments in the human rights mechanisms and their procedures since the 70th Session, highlighting especially the development of the UPR as a new mechanism designed to complement existing structures. The UPR is intended to be a cooperative mechanism founded on the same principles of dialogue and objective information as the treaty bodies. The Deputy High Commissioner stressed that the UPR should promote the universality of all human rights and ensure equal treatment of all states. Additionally, it should complement rather than duplicate existing human rights mechanisms. Finally, it was mentioned that the UPR constitutes the most innovative feature of the HRC's work as of yet. The modalities of the UPR are due to be approved in September, with the first 16 countries under review to be considered in February 2008.

Another issue of notable importance raised by Ms. Kang was that of the follow-up to the Durban Conference. In relation to this, during the 61st Session of the General Assembly, the General Assembly decided to commence in 2009 a review conference on the implementation of the Durban Declaration and Plan of Action. The HRC should act as a Preparatory Committee in this regard. Within this framework, CERD is to assist in preparatory work by providing information to the Coordinator of the Anti-Discrimination Unit, which will be holding a preparatory meeting in Geneva between the 27th and 31st of August.

The next item to be discussed was Treaty Body reform. Harmonisation reports on progress have been made. Ms. Kang emphasised the need for more streamlined working methods so that the Treaty Body System could continue to provide the best possible protection. The Deputy High Commissioner recommended that inter-committee meetings take place twice annually. She stressed a need to make recommendations to improve working methods of Treaty Bodies and the approach of Treaty Bodies to reservations. Work in this respect should be conducted with input from NGOs and other UN Specialised Agencies.

The final issue the Deputy High Commissioner brought up was the actions the High Commissioner had taken since the 70th CERD Session. In brief, the High Commissioner had taken a tour of the Great Lakes Region in Africa and also to Central Asia. OHCHR is in the process of establishing a regional office in the Kyrgyz capital, Bishkek.

The HRC continued to hold workshops including the 14th Annual Workshop of the Framework on Regional Cooperation for the Promotion and Protection of Human Rights in Asia and the Pacific in Bali, Indonesia, in July 2007. This workshop was designed to help spread awareness of Human Rights and training for National Human Rights Institutions, with the aim of disseminating the Concluding Observations of the Treaty Bodies. The next workshop is scheduled for November 2007 and is to be held in Geneva. Also, there are to be follow-up workshop sessions in Georgia, Mexico and Morocco.

Following the presentation, the Chairman, Mr. De Gouttes, opened the floor to questions. A minor debate broke out over the use of the HRC as an alternative to the General Assembly in terms of reading and acting upon the Annual Report of CERD. Several Committee members were critical of the General Assembly 3rd Committee's attitude toward their Annual Report. Ms. Kang reiterated that it was not the HRC's function to review Treaty Body reports but the General Assembly's, as it is this body which is the universal membership body. She urged CERD to engage in a closer partnership with civil society to help achieve its aims.

Statement by ILO Representative to CERD: Mr. Oelz

Although originally, the ILO Representative gave their presentation in closed session, notes have since been released on the content of that meeting. In brief, Mr. Oelz, the ILO representative referred to the fact that a significant number of States had ratified ILO Convention No. 111, the Discrimination (Employment and Occupation) Convention. The overlap between CERD and the ILO Committee of Experts on the Application of Conventions was an issue which needed to be addressed. Mr. Oelz emphasised the need for wide-ranging policies to address inequalities in structure. Finally, the Representative commented that the ILO was happy to continue providing back-up to CERD and would be available to provide any ad-hoc assistance the Committee may require. Mr. Cali Tzay asked the ILO representative how many countries had ratified ILO Convention No. 169 on Indigenous and Tribal Peoples and what their history of implementation of it was. Mr. Oelz commented that 20 states had ratified the Treaty and CERD's focus on it helped promote it. Due to a lack of time, he did not comment on the history of implementation of the Convention.

Statement by Representative from the Anti-Discrimination Unit

A statement was made by a representative from the Anti-Discrimination Unit on the follow-up to Durban, more specifically, on the conclusions of the Inter-Governmental Working Group on the follow-up to Durban. The study they made has been finalised and edited and will be discussed. As a result of the HRC's recent Session, the work of the Working Group will be somewhat changed in terms of complementary standards.

Additionally, the mandate will be changed and it must be decided what is to be focused on and how things will be organised. It was stated that CERD must cooperate with the group.

Work so far has led to a recommendation to create an Inter-Sessional Working Group, which will study all the contributions made by Treaty Bodies so as to flush out the most important ideas that could serve as the basis for the final document of the conference. Finally, it was mentioned that there are enough standards and there has been a great effort to advise member states on these standards. The official position is that now the victims' concerns must be addressed to see why they believe that they are as of yet not benefiting from the mechanisms. The situation of the enjoyment of human rights must be improved and, in this respect, the conference should focus on identifying what the practical measures, tools and mechanisms should be to help tackle discrimination.

Presentation by the Special Rapporteur on Freedom of Religion and Belief: Ms. Jahangir

On Monday the 6th August, a dialogue took place between the Special Rapporteur on Freedom of Religion and Belief and the CERD, as had been discussed at the previous session. Concerns were raised by members of the Committee, notably by Mr. Amir, on the conceptions of Muslims in the post-9/11 world. Mr. Amir stated that religion has been incorporated into an act, resulting in the portrayal of Muslims as terrorists. The Special Rapporteur responded that in the post-9/11 world, there is not just heightened anti-Islamic sentiment but anti-Christian and anti-Jewish sentiment, too. She urged the Committee to continue to deal with religious matters if they were deemed to be intertwined with matters of racial discrimination.

The Special Rapporteur also mentioned that Race is not a matter of choice: You are born with in. However, choosing to change or denying religion is central to the concept of freedom of religion. This notion, however, was challenged by several members of the Committee. One member commented that, "we are born not with a race, as you say, but within a race... You are subject to the judgement of others because you are born within a race." Additionally, Religion is seen as counter to modernisation as modernisation sees religion as an inhibition. Another Committee member mentioned that both race and religion were constructions and vary widely depending on the perspective taken.

In conclusion, Ms. Jahangir stated that she wished to look into the issue of indigenous peoples in more depth, as this was an area of fusion where a person's identity is closely linked to their religion.

Meeting with States Parties

CERD held its second meeting with States Parties, the first being in 2003, to discuss improving its working methods, follow-up procedures, treaty body reform, and the relationship between treaty bodies and the HRC.

Chairman De Gouttes introduced the numerous developments that have been underway concerning treaty body reform as well as reforms within the Committee. He stated that the Committee had been a pioneer in terms of working methods emphasising the introduction of early warning/urgent action procedures in 1993 to prevent situations of conflict from further deterioration. Due to more recent developments, this procedure has been extended to address situations that may regress into genocide, and in light of these reforms, a Working Group has been established to monitor situations under these procedures. He further noted that the establishment of the review procedure, designed to reopen dialogue with State Parties whose reports are seriously overdue, may also be deemed a success: Since its inception, 12 reports had been submitted which had been overdue. In addressing the matter of late reports, Chairman De Gouttes gave a list of figures which, he stated, was of serious concern to the Committee. Of 173 State Parties to ICERD, 18 were behind on their reporting obligations by more than 10 years; 8 for more than 20; 4 for more than 15 and 30 for more than 5. Of the latter 30, 4 have yet to submit their initial reports. Also raised, as a matter for concern, were the late requests for deferring the consideration of reports by State Parties.

The dialogue between the Committee and State Parties was dominated by the topic of the possible introduction of a list of issues. The main aspect discussed was the purpose of the list of issues. Among the questions raised was whether the list was to deepen dialogue between the Committee and State Parties or for the provision of in depth written replies. Other aspects included whether it should fully, or partially, replace the periodic report. Whilst this approach was supported by some State Parties, who also supported the restriction of dialogue to the questions on the list of issues, members of the Committee and several other States expressed the opinion that the list of issues should be an additional aid in deepening dialogue between the two.

Procedural Matters

There were many procedural matters discussed during this session, some of which are highlighted above. Further discussions took place including the review of recent meetings on working methods of human rights treaty bodies, the review and adoption of revised draft guidelines for Committee-specific reports and reservations to treaties.

Expert Mr Sicilianos presented a report on the outcome of the meeting between the Human Rights Treaty Bodies and the International Law Commission. It was stated that all human rights treaty bodies assumed the mandate to discuss the validity of reservations, a matter often discussed during dialogue with States, and this influence on the evolving interpretation of treaty law had led to the Special Rapporteur of the ILC on reservations, to revise his guidelines. The Special Rapporteur had also made clear that the validity of reservations may now be addressed by the treaty bodies as well as States. The Committee also amended its rules of procedure concerning National Human Rights Institutions in that, with the consent of the State Party, NHRI's may formally address the Committee in their capacity as independent parties, a decision that is supported by the success of the presentations of those National Human Rights Institutions present during this session.

Next Session

The next session of CERD will be held in Geneva from 18th February to 7th March, 2008. Reports scheduled for consideration are Republic of Moldova, Italy, Republic of Fiji Islands, Belgium, Russian Federation, Dominican Republic, United States of America and Nicaragua. Due to be examined under the review procedure are; Gambia, Monaco, Bulgaria, the United Arab Emirates and Panama.

Full copies of the State Reports, lists of issues, concluding observations, letters and NGO information for each State Party can be found by following the links below.

State Reports, List of Issues and NGO information

<http://www.ohchr.org/english/bodies/cerd/cerds71.htm>

Azerbaijan

<http://www.ohchr.org/english/bodies/cerd/docs/LetterAzerbaijan24Aug07.pdf>

Belize

http://www.ohchr.org/english/bodies/cerd/docs/belize_letter.pdf

Brazil

<http://www.ohchr.org/english/bodies/cerd/docs/letterbrazil24aug07.pdf>

Chile

http://www.ohchr.org/english/bodies/cerd/docs/chile_letter.pdf

Costa Rica

<http://www.ohchr.org/english/bodies/cerd/docs/CERD/C/CRI/CO/18>

Democratic Republic of Congo

<http://www.ohchr.org/english/bodies/cerd/docs/CERD/C/COD/CO/15>

Ethiopia

<http://www.ohchr.org/english/bodies/cerd/docs/LetterEthiopia3sep07.pdf>

Indonesia

<http://www.ohchr.org/english/bodies/cerd/docs/CERD.C.IDN.CO.3.pdf>

Korea

<http://www.ohchr.org/english/bodies/cerd/docs/CERD/C/KOR/CO/1>

Kyrgyzstan

<http://www.ohchr.org/english/bodies/cerd/docs/CERD/C/KGZ/CO/4>

Lithuania

<http://www.ohchr.org/english/bodies/cerd/docs/LetterLithuania24Aug07.pdf>

Malawi

http://www.ohchr.org/english/bodies/cerd/docs/malawi_letter.pdf

Mozambique

<http://www.ohchr.org/english/bodies/cerd/docs/CERD/C/MOZ/CO/12>

New Zealand

<http://www.ohchr.org/english/bodies/cerd/docs/CERD/C/NZL/CO/17>

Nicaragua

http://www.ohchr.org/english/bodies/cerd/docs/nicaragua2_letter.pdf

Pakistan

<http://www.ohchr.org/english/bodies/cerd/docs/LetterPakistan3sep07.pdf>

Peru

<http://www.ohchr.org/english/bodies/cerd/docs/letterperu3sep07.pdf>

Philippines

http://www.ohchr.org/english/bodies/cerd/docs/philippines_letter.pdf