

PAPUA NEW GUINEA

Special Decisions or Action Taken Re: Reporting, Including Urgent Action Procedure

CERD CERD/C/SR.983 (1993)

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION
Forty-second session
PROVISIONAL SUMMARY RECORD OF THE 983rd MEETING

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SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9, PARAGRAPH 1,
OF THE CONVENTION (continued)

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Draft decision on the human rights situation in Burundi, Rwanda and Papua New Guinea

75. Mr. BANTON introduced the draft decision, which read:

"At its forty-first session, the Committee on the Elimination of Racial Discrimination addressed communications to the Government of Burundi, Rwanda and Papua New Guinea requesting further information (see A/47/18, sect. VII and paras. 265-266). This information was requested by 1 March 1993, but, at the time of writing, has not yet been received.

The Committee is concerned about information it has received independently about the situation in these countries and believes it must take up the matter again at its next session starting on 2 August 1993. Therefore, the Committee requests the Secretary-General to make available to it any relevant information concerning the human rights situation in these countries."

76. He asked the Secretary of the Committee to explain what effects that decision would have from the administrative point of view.

77. Mr. JOHNSON (Secretary of the Committee) said that the last sentence of the decision was to be understood as requesting the Secretariat of the Centre for Human Rights to inquire about information that might be available on the human rights situation in those countries. Such information could be derived from the documentation of the Commission on Human Rights and also from material that had been submitted to treaty monitoring bodies under other conventions.

78. Mr. LAMPTEY said he did not think that the draft decision was either necessary or proper.

The Committee's sole task under the Convention was to consider situations in countries on the basis of reports by States parties.

79. The Committee had already decided that, when countries did not respond to its requests for information, as in the case of Mozambique, its procedure would be to consider previous reports, together with material from other sources. However, taking account of reports submitted to other human rights bodies might lead to problems with the State party. The Committee's proper function was to cooperate with States parties in eliminating racial discrimination.

80. Just as State parties had freely assumed their obligations under the Convention, so were they free to renounce those obligations at any time, and that would hardly help to achieve the Committee's objectives. All the Committee needed to do was to agree to consider the reports of the three Governments concerned at its next session, if they had been received by then. The country rapporteurs could help the Secretariat obtain the necessary documentation.

81. Mr. WOLFRUM said he did not fully understand those objections. Mr. Lamptey had himself agreed that the Committee could, under its own rules of procedure, discuss the situation in the countries concerned on the basis of previous reports and, in so doing, could use not only official material, but material from other sources. All the draft decision was doing was to ensure that there was sufficient information on which to assess those reports.

82. The three countries concerned had not cooperated with the Committee and he did not see why they should receive different treatment than Mozambique and Jamaica.

83. Mr. BANTON said that he would have no objection if the Committee did not adopt the draft decision, provided that it agreed to include the consideration of the last available reports of the three States parties in the agenda for its next session. Those States should be notified of the Committee's intention, using the format normally adopted in cases of non-reporting States, and should be invited to submit reports in the interim and to be present when those reports were considered.

84. Mr. YUTZIS said that the members of the Committee evidently disagreed on how article 9 (2) of the Convention, which stated that recommendations could be based on "information received from the States parties", was to be interpreted. It might be useful to draft a general recommendation on the subject.

85. He himself could support the draft decision in principle.

86. Mr. de GOUTTES pointed out that there were two other draft decisions, to be considered on the former Yugoslavia. The adoption of those two decisions before the end of the session was a matter of urgency, particularly since the Committee had agreed to consider the possibility of preventive measures under article 9 (1).

87. Another matter of priority was the text concerning the case of Mr. Vidas, introduced earlier:

that case was significant as an example of discrimination based on ethnic origin.

88. Mr. WOLFRUM supported by Mr. SONG Shuhua, proposed that the Committee should adopt Mr. Banton's suggestion that, instead of adopting the draft decision, it should agree to discuss the last available reports of the three States parties concerned at its next session.

89. It was so decided.

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CERD A/50/18 (1995)

II. PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES

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A. Decisions adopted by the Committee

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8 (46). Papua New Guinea

The Committee reiterates its concluding observations, adopted at its 1010th meeting on 19 August 1993 and at its 1060th meeting on 12 August 1994, in which it expressed concern at reports of serious human rights violations in Bougainville, including summary executions and population transfers, as well as possible large-scale mining operations in Bougainville without due regard to the rights of the ethnically distinct population or the adverse effects of environmental degradation.

It notes with appreciation that a process to re-establish peace on the Papua New Guinea island of Bougainville has been initiated and that the "Mirigini Charter" was signed on 25 November 1994. The Committee, however, notes with concern that most leaders of the Bougainville Revolutionary Army and the organization known as the Bougainville Interim Government did not participate in the Bougainville Peace Conference, held in October 1994, which provided the basis for discussions leading to the signing of the "Mirigini Charter".

The Committee urges that in the future all parties participate in the negotiations towards a total cessation of armed conflict and the restoration of peace, which is crucial to the full implementation of human rights without distinction as to race, colour or national or ethnic origin.

The Committee renews its offer to the Government of Papua New Guinea to provide assistance in efforts to strengthen national mechanisms for the promotion and protection of human rights and in particular for protection against racial discrimination. It calls upon the Government of Papua New Guinea to renew its dialogue with the Committee, in accordance with article 9 of the Convention, and to expedite its periodic reports which were due on 26 February 1985, 1987, 1989, 1991, 1993 and 1995, respectively, and which should contain specific information on the situation prevailing on the island of Bougainville. Such information should reach the Committee in time to be considered at its forty-seventh session in August 1995.

1097th meeting
16 March 1995

...

3 (47). The situation in Papua New Guinea

The Committee refers to its concluding observations adopted at its 1010th meeting on 19 August 1993 and at its 1060th meeting on 12 August 1994, together with its decision 8 (46) adopted at its 1097th meeting on 16 March 1995. In decision 8 (46) the Committee reiterated its concerns regarding ongoing human rights violations in Bougainville, welcomed positive developments such as the signing of the "Mirigini Charter", and urged that all sectors of the population be permitted to play a part in programmes for the restoration of a durable peace. The Committee also requested the Government to expedite outstanding periodic reports, due for submission under article 9 of the Convention, in time for their consideration by the Committee at the present session.

The Committee regrets the failure of the government to submit the outstanding reports or to otherwise respond to the request of the Committee to renew a dialogue.

The Committee again calls on the Government to take all necessary steps to halt and redress human rights abuses in Bougainville based on ethnic grounds. In particular, it should undertake confidence-building measures enabling all the people of Bougainville to participate directly in decisions and processes directed towards a peace settlement and the re-establishment of civil society.

The Committee reiterates its request to the Government that it submit without further delay outstanding reports under article 9 of the Convention, preferably in time for their consideration at the forty-eighth session of the Committee in March 1996.

The Committee notes that the information on the human rights situation received by the Secretariat is not sufficient to assess the situation in Bougainville.

The Committee brings the present decision to the attention of the United Nations High Commissioner for Human Rights and requests him to take any possible action under his mandate towards its implementation.

1124th meeting
16 August 1995

CERD A/51/18 (1996)

B. Decisions adopted by the Committee at its forty-ninth session

31. At its forty-ninth session, the Committee discussed under this agenda item the situation in ... Papua New Guinea...

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36. With respect to the situation in Papua New Guinea, the Committee decided that since there was no further information that the conflict on the island of Bougainville was still in existence, it would remove it from the list of countries to be considered under its early-warning measures and urgent procedures.

CERD A/52/18 (1997)

II. PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES

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Decisions adopted by the Committee at its fifty-first session

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Decision 4 (51) on Papua New Guinea

1. At its 1242nd meeting, held on 21 August 1997 (CERD/C/SR.1242), the Committee reviewed the implementation of the Convention by Papua New Guinea, under its agenda item on prevention of racial discrimination.
2. Papua New Guinea's initial report (CERD/C/101/Add.4) was considered by the Committee in 1984. The Committee subsequently considered the situation in the State party in 1994 under its agenda item on prevention of racial discrimination.^{5/}
3. Despite the Committee's repeated requests,⁶ Papua New Guinea has regrettably not submitted an up-to-date report or any information requested on the issue of Bougainville.
4. The Committee is aware that the Government of Papua New Guinea requested the Secretary-General to send his representative to assist with a new round of discussions between the Government and the main Bougainvillean parties.
5. The Committee is appreciative of the efforts of the Secretary-General's representative to assist with a new round of discussions between the Government of the State party and the main Bougainvillean parties (see E/CN.4/1996/58), and it notes the visit of the Commission on Human Rights' Special Rapporteur on extrajudicial, summary and arbitrary executions to the State party (see E/CN.4/1996/4/Add.2).
6. The Committee condemns and regrets the killing of the premier of the Bougainville Transitional Government, Mr. Theodore Miriung, on 12 October 1996 by unidentified assailants, which resulted in a serious setback for all the efforts to find a solution of the Bougainville problem.

^{5/} Official Records of the General Assembly, Forty-ninth Session, Supplement No. 18 (A/49/18), paras. 92-105.

7. The Committee wishes to encourage any further effort to resume the discussions between the parties involved in the Bougainville conflict.

8. The Committee once again requests the State party to submit its report under article 9 (1) of the Convention, as well as to supply information specifically on the situation in Bougainville under its prevention of discrimination procedures, so that the Committee can examine them in 1998.

9. The Committee wishes to suggest that the State party may wish to avail itself of the technical assistance offered under the advisory services and technical assistance programme of the United Nations High Commissioner for Human Rights/Centre for Human Rights, with a view to drawing up and submitting its report.

1242nd meeting
21 August 1997

CERD A/53/18 (1998)

Chapter II

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Prevention of racial discrimination, including early warning and urgent procedures

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Decisions adopted by the Committee at its fifty-second session

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Decision 2 (52) on Papua New Guinea

1. At its 1249th meeting on 4 March 1998 (see CERD/C/SR.1249), the Committee reviewed again the implementation of the Convention by Papua New Guinea, under the agenda item on prevention of racial discrimination.
2. Despite the Committee's repeated requests, Papua New Guinea has not resumed its dialogue with the Committee. It has submitted neither its periodic report nor the additional information requested about the situation in Bougainville.
3. The Committee has not been informed of whether there have been any further contacts between the State party and the representative of the Secretary-General.
4. The Committee reiterates its decision 4 (51) of 21 August 1997 on Papua New Guinea.
5. The Committee once again requests the State party to submit its report under article 9, paragraph 1, of the Convention, as well as to supply information specifically on the situation in Bougainville.
6. The Committee once again invites the State party to avail itself of the technical assistance offered under the advisory services and technical assistance programme of the United Nations High Commissioner for Human Rights with a view to drawing up and submitting its report and specific information.
7. The Committee decides that, in the absence of any indication on the part of the State party that it will comply with its obligation under article 9, paragraph 1, of the Convention, it will consider implementation of the Convention in Papua New Guinea at its 53rd session in August 1998, under its prevention of discrimination procedure.

1271st meeting
19 March 1998

CERD A/57/18 (2002)

Chapter II. PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES

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19. At its 1506th meeting, on 16 March 2002, the Committee reviewed the implementation of the Convention by Papua New Guinea under the early warning procedure. The Committee adopted decision 1 (60)^{5/} which provides that, in the absence of any indication on the part of the State party that it will comply with its obligations under article 9, paragraph 1 of the Convention, the Committee will consider the implementation of the Convention in Papua New Guinea at its sixty-second session, in March 2003...

^{5/} For the text of this decision, see chapter XI, section A.

Chapter VII. SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9, PARAGRAPH 1, OF THE CONVENTION

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C. Action taken by the Committee to ensure submission of reports by States parties

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497. At its sixtieth and sixty-first sessions, the Committee reviewed the question of delays and non-submission of reports by States parties in accordance with their obligations under article 9 of the Convention.

498. At its forty-second session, the Committee, having emphasized that the delays in reporting by States parties hampered it in monitoring implementation of the Convention, decided that it would continue to proceed with the review of the implementation of the provisions of the Convention by the States parties whose reports were excessively overdue by five years or more. In accordance with a decision taken at its thirty-ninth session, the Committee agreed that this review would be based upon the last reports submitted by the State party concerned and their consideration by the Committee. At its forty-ninth session, the Committee further decided that States parties whose initial reports were excessively overdue by five years or more would also be scheduled for a review of implementation of the provisions of the Convention. The Committee agreed that in the absence of an initial report, the Committee would consider all information submitted by the State party to other organs of the United Nations or, in the absence of such material, reports and information prepared by organs of the United Nations. In practice the Committee also considers relevant information from other sources including from non-governmental organizations, whether it is an initial or periodic report that is seriously overdue. The question of the extent to which conclusions communicated to the State party under the review procedure could be based upon that material remains a matter of ongoing discussion (CERD/C/SR.1463).

499. Following its fifty-ninth session, the Committee decided to schedule at its sixtieth session a review of the implementation of the provisions of the Convention in the following States parties whose periodic reports were seriously overdue: ... Papua New Guinea ...

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501. The Committee again requested the Secretary-General to continue sending reminders automatically to those States parties whose reports were overdue.

Chapter XI. Decisions, Statements and General recommendations

514. The following decisions, statements and general recommendations were adopted by the Committee at its sixtieth and sixty-first session:

A. Decision 1 (60) on Papua New Guinea

1. At its 1506th meeting, on 11 March 2002 (see CERD/C/SR.1506), the Committee reviewed again the implementation of the Convention by Papua New Guinea under the early warning procedure.
2. Despite the Committee's repeated requests, Papua New Guinea has not resumed its dialogue with the Committee. It has submitted neither its periodic report nor the additional information requested about the situation in Bougainville. In fact, the dialogue between Papua New Guinea and the Committee has been interrupted since 1984. The State party has not fulfilled its obligation under article 9, paragraph 1, of the Convention.
3. The Committee reiterates its decisions 2 (52) of 19 March 1998, 4 (51) of 21 August 1997, 3 (47) of 16 August 1995 and 8 (46) of 16 March 1995 on Papua New Guinea, in which it requested the State party to comply with its obligation under article 9, paragraph 1, of the Convention, mainly to provide information on the situation in Bougainville.
4. The Committee urges the State party to submit its report under article 9, paragraph 1, of the Convention, as well as to supply information specifically on the present situation in Bougainville. In particular, the report should provide information on the demographic composition of the population, as well as the economic, social and cultural situation of the various ethnic groups. In this connection, the Committee wishes again to draw the State party's attention to the possibility of availing itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights.
5. The Committee draws the attention of the State party to the provisions of the Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, according to which the International Convention on the Elimination of All Forms of Racial Discrimination is the principal international instrument for the elimination of racism, racial discrimination, xenophobia and related intolerance and States are urged to cooperate with the Committee in order to promote the effective implementation of the Convention.
6. The Committee hopes that the State party will also consider withdrawing its reservation to article 4 of the Convention.
7. The Committee decides that, in the absence of any indication on the part of the State party that it will comply with its obligation under article 9, paragraph 1, of the Convention, it will

consider the implementation of the Convention in Papua New Guinea at its sixty-second session, in March 2003.

CERD, A/60/18 (2005)

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Chapter V. Review of the implementation of the Convention in States parties whose reports are seriously overdue

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C. Action taken by the Committee to ensure submission of reports by States parties

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426. At its sixty-sixth and sixty-seventh sessions, the Committee reviewed the question of delays and non-submission of reports by States parties in accordance with their obligations under article 9 of the Convention.

427. At its forty-second session, the Committee, having emphasized that the delays in reporting by States parties hampered it in monitoring implementation of the Convention, decided that it would continue to proceed with the review of the implementation of the provisions of the Convention by the States parties whose reports were overdue by five years or more. In accordance with a decision taken at its thirty-ninth session, the Committee agreed that this review would be based upon the last reports submitted by the State party concerned and their consideration by the Committee. At its forty-ninth session, the Committee further decided that States parties whose initial reports were overdue by five years or more would also be scheduled for a review of implementation of the provisions of the Convention. The Committee agreed that in the absence of an initial report, the Committee would consider all information submitted by the State party to other organs of the United Nations or, in the absence of such material, reports and information prepared by organs of the United Nations. In practice the Committee also considers relevant information from other sources, including from non-governmental organizations, whether it is an initial or periodic report that is seriously overdue.

428. Following its sixty-fifth session, the Committee decided to schedule at its sixty-sixth session a review of the implementation of the Convention in the following States parties whose periodic reports were seriously overdue: Bosnia and Herzegovina, Ethiopia, El Salvador, Nicaragua and Papua New Guinea... At its 1695th meeting, the Committee reviewed the implementation of the Convention in Papua New Guinea...

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D. Decisions

431. At its 1695th meeting, held on 8 March 2005, the Committee decided to request the

Chairman to send a letter to the Permanent Representative of Papua New Guinea to the United Nations. In his letter of 11 March 2005, the Chairman informed the Permanent Representative that the Committee had reviewed the situation of Papua New Guinea in the absence of a report. Furthermore, he reiterated the strong appeal made in 2003 to resume the dialogue interrupted since 1984, and to that end submit a report in accordance with article 9 of the Convention. The Committee regretted that, despite its repeated requests, Papua New Guinea had not yet fulfilled its obligations under article 9, paragraph 1, of the Convention. In order to stimulate the Committee's future discussion on the implementation of the Convention at its sixty-eighth session, the Chairman attached to his letter a list of questions elaborated by the Committee with a request for a response by 30 November 2005. The Committee once again drew the State party's attention to the possibility of availing itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights.

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CERD, A/61/18 (2006)

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Chapter V. Review of the implementation of the Convention in States parties whose reports are seriously overdue

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C. Action taken by the Committee to ensure submission of reports by States parties

466. At its forty-second session, the Committee, having emphasized that the delays in reporting by States parties hampered it in monitoring implementation of the Convention, decided that it would continue to proceed with the review of the implementation of the provisions of the Convention by the States parties whose reports were overdue by five years or more. In accordance with a decision taken at its thirty-ninth session, the Committee agreed that this review would be based upon the last reports submitted by the State party concerned and their consideration by the Committee. At its forty-ninth session, the Committee further decided that States parties whose initial reports were overdue by five years or more would also be scheduled for a review of implementation of the provisions of the Convention. The Committee agreed that in the absence of an initial report, the Committee would consider all information submitted by the State party to other organs of the United Nations or, in the absence of such material, reports and information prepared by organs of the United Nations. In practice the Committee also considers relevant information from other sources, including from non-governmental organizations, whether it is an initial or periodic report that is seriously overdue.

467. Following its sixty-seventh session, the Committee decided to schedule at its sixty-eighth session a review of the implementation of the Convention in the following States parties whose periodic reports were seriously overdue: Antigua and Barbuda, Congo, Ethiopia, Mozambique, Nicaragua and Papua New Guinea... At its 1746th meeting, it discussed the situation in Papua New Guinea and decided to postpone the review of the implementation of the Convention in this State party to its seventieth session.

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Chapter V. Review of the implementation of the Convention in States parties whose reports are seriously overdue

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C. Action taken by the Committee to ensure submission of reports by States parties

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504. At its forty-second session, the Committee, having emphasized that the delays in reporting by States parties hampered it in monitoring implementation of the Convention, decided that it would continue to proceed with the review of the implementation of the provisions of the Convention by the States parties whose reports were overdue by five years or more. In accordance with a decision taken at its thirty-ninth session, the Committee agreed that this review would be based upon the last reports submitted by the State party concerned and their consideration by the Committee. At its forty-ninth session, the Committee further decided that States parties whose initial reports were overdue by five years or more would also be scheduled for a review of implementation of the provisions of the Convention. The Committee agreed that in the absence of an initial report, the Committee would consider all information submitted by the State party to other organs of the United Nations or, in the absence of such material, reports and information prepared by organs of the United Nations. In practice the Committee also considers relevant information from other sources, including from non-governmental organizations, whether it is an initial or periodic report that is seriously overdue.

505. Following its sixty-ninth session, the Committee decided to schedule at its seventieth session the review of the implementation of the Convention in the following States parties whose periodic reports were seriously overdue: Congo, Ethiopia, Nicaragua and Papua New Guinea. In the cases of the Congo and Nicaragua, the reviews were postponed at the request of the States parties, which indicated their intention to submit the requested reports shortly. The Committee also decided to postpone the review of the implementation of the Convention in Papua New Guinea.

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