



An Analytical Study of Committee on the Elimination of Racial Discrimination (CERD)

Dr. Priyanka Samant

Assistant Professor – Law
Govt. Law College, Alwar (Raj.)

Abstract

The committee on the Elimination of Racial Discrimination (CERD) is the body of independent experts that monitors the implementation of the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination (OCERD) by its State parties.

All States parties are obliged to submit regular reports to the CERD on how the rights contained in the Convention are being implemented. States are initially required to report a year after acceding to the Convention and then every two years. The Committee examines each report and informs the State party of its recommendations and concerns in the “concluding observations”.

Keyword : CERD, Convention, Racial Discrimination

Introduction :

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. 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-one they have become parties by ratifying or acceding to it to eliminate racial discrimination.

The committee has 18 independent experts who are elected for a term of four years by the State parties. Elections for nine of the eighteen members are held every two years ensuring a balance between continuity and change in the composition of the Committee.

The CERD also publishes its interpretation of the content of human rights provisions, known as General Recommendations (or General Comments), on thematic issues, and organizes thematic discussions. The Committee meets in Geneva and normally holds two sessions per year comprising three weeks each.

Research Methodology :

In approaching the topic at hand, the researcher adopted a combination of descriptive and analytical methods. Evaluation of existing law relating to elimination of all forms of Racial discrimination under International Law has been examined meticulously and keenly. The



Doctrinal legal research has been employed to do by arranging, analyzing and systematizing the law.

Reporting System – States are required to submit periodical reports under article 9 of the convention as under;

1. States parties undertake to submit to the Secretary-General of the United nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of this Convention:
 - a. within one year after the entry into force of the Convention for the State concerned: and
 - b. thereafter every two years and whenever the Committee so requests. The Committee may request further information from the States Parties.
2. The Committee shall report annually, through the Secretary General, to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States Parties. Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from States Parties.ⁱ

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.

Inter-state complaints, Article 11-

1. If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may bring the matter to the attention of the - Committee. The Committee shall then transmit the communication to the State Party concerned. Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.
2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter again to the Committee by notifying the Committee and also the other State.



3. The Committee shall deal with a matter referred to it in accordance with paragraph 2 of this article after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.
4. In any matter referred to it, the Committee may call upon the States Parties concerned to supply any other relevant information.
5. When any matter arising out of this article is being considered by the Committee, the States Parties concerned shall be entitled to send a representative to take part in the proceedings of the Committee, without voting rights, while the matter is under consideration.

Other Mechanism

In addition to the reporting procedure, the Convention establishes three other mechanism through which the CERD performs its monitoring functions:

1. Early-warning procedure;
2. Examination of inter-state complaints; and
3. Examination of individual complaints

Conclusion:

CERD also includes in its regular agenda '*preventive measures*', which include early-warning aimed at preventing existing situations escalating into conflicts and urgent procedures to respond to problems requiring immediate attention to prevent or limit the scale or number of serious violations of the Convention.

References :

-
- ⁱ Fact Sheet No. 12, The Committee on the Elimination of Racial Discrimination: "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." Available at: <http://www.ohchr.org/Documents/Publications/FactSheet12en.pdf> (Visited on June 18, 2014).