

15 May 2024 WGRD panel

Presentation by Michał Balcerzak, Chair of CERD

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Mr. Chairperson, Ambassador Akram,

Distinguished Representatives of States, Civil Society and Other stakeholders,

Participants to the 25th session of the Intergovernmental working group on the right to development,

Ladies and gentlemen,

My name is Michał Balcerzak, I am professor of law at Nicolaus Copernicus University in Toruń, Poland, and Chair of the Committee on the Elimination of Racial Discrimination.

Let me thank you for the opportunity to address you during the panel that concerns the contribution of the right to development towards combating discrimination, including racial discrimination.

The mandate and activities of your Working Group constantly remind us that the right to development is a fundamental principle that should underpin our societies and our aspirations for a better world. There is hardly any doubt that the prohibition of racial discrimination is also such a pillar that is deeply intertwined with development and essential for fostering a just and equitable society.

The right to development, just as the prohibition of racial discrimination, is not merely an abstract concept; it is a fundamental human right enshrined in international law. It asserts that every individual and all peoples, regardless of race and ethnicity, as well as national and ethnic background, are entitled to participate in, contribute to, and enjoy economic, social, cultural, and political development. This right recognizes that development is not solely about economic growth, but about improving the well-being and quality of life for all members of society, especially the most vulnerable and marginalized.

However, the realization of the right to development is often hindered by systemic inequalities, one of them being racial discrimination. It persists in various forms, including institutionalized racism, structural inequalities, and prejudicial attitudes. It not only denies individuals their inherent dignity and rights but also perpetuates cycles of poverty, exclusion, and injustice.

The intersectionality of the right to development and the prohibition of racial discrimination demands our unwavering commitment to address the root causes of inequality and injustice. It requires us to dismantle discriminatory structures and policies, challenge ingrained prejudices, and actively promote inclusivity and diversity in all spheres of society.

As we strive to uphold these rights, we must recognize that development cannot be truly sustainable or meaningful unless it is inclusive and equitable for all, regardless **race, colour, descent, or national or ethnic origin – the criteria mentioned in Article 1 of the ICERD**

Convention. Development efforts must be guided by principles of social justice, human rights, and respect for diversity, ensuring that no one is left behind.

There are three more points I would like to share with you.

Firstly, let me bring your attention to the fact that although the ICERD Convention us “development” only once, it does so in a very important context. When the circumstances so warrant, the Convention obliges states to take “special and concrete measures” in the social, economic, cultural and other fields,

to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms (ARTICLE 2 para. 2 of ICERD)

Please note that the reference to “adequate development and protection of certain racial groups and individuals belonging to them” through the adoption and enforcement of “special and concrete measures” has been part and parcel of the ICERD obligations from the beginning, that is from its entry into force in 1969.

Since its early days, the CERD Committee has been exercising the competence to review the reports of State-Parties on measures which they have adopted and which give effect to the provisions of this Convention. The Committee has continued this task for the last 50 years. We keep reviewing state practice and engaging in in-depth dialogues with states in order to make sure that the above mentioned “adequate development and protection” of racial groups and individuals belonging to them is taken seriously.

Secondly,

Even though it is the ICERD Convention that remains at the heart of our activities, it is not surprising that we constantly refer to the values and principles enshrined in the Durban Declaration and Programme of Action. As you're aware, the DDPA not only aligns with the ICERD's objectives but also amplifies them, with numerous references to the right to development. This right is explicitly mentioned in the preamble to the DDPA and reaffirmed several times in the text.

I believe it is of utmost importance that the discussions on the right to development take into consideration the spirit and specific provisions of the Durban Declaration and the Programme of Action.

Thirdly,

While preparing for this presentation, I have taken a deeper look at the Draft international covenant on the right to development. I must say I was impressed by the quality of the draft and the message that it conveys. Notably, the draft Article 8 of the Covenant refers to the obligation to protect and fulfil the right to development for all, without discrimination of any kind, including on the basis of race, colour and other status referred in the ICERD Convention.

I mentioned a moment ago that our Convention imposes an obligation to undertake “special and concrete measures” in order to ensure “adequate development and protection of certain racial groups and individuals belonging to them”. It is gratifying to observe that the Draft Covenant similarly incorporates a provision on 'specific and remedial measures' (Article 15),

targeting discrimination, marginalization, or vulnerability based on factors such as race, color, national, and ethnic origin. Article 15 of the Draft Covenant emphasizes the importance of recognizing such measures to expedite or achieve substantive equality in the enjoyment of the right to development.

I believe that the realm of 'special and concrete' measures, as stipulated in the ICERD Convention, or 'specific and remedial' measures, as reflected in Article 15 of the Draft Covenant, constitutes the very ground where the prohibition of racial discrimination and the right to development intersect and intertwine.

To sum up:

In our pursuit of a world where every individual can realize their full potential, let us reaffirm our commitment to the right to development and the prohibition of racial discrimination. Let us work together to build societies that are founded on equality, justice, and solidarity, where every person, irrespective of their race or background, can thrive and contribute to the collective progress of humanity.

Thank you for your attention.