



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

Distr.: General
15 October 2012
English
Original: French

Committee on the Elimination of Racial Discrimination
Eightieth session

Summary record of the 2131st meeting

Held at the Palais Wilson, Geneva, on Wednesday, 15 February 2012, at 3 p.m.

Chairperson: Mr. Avtonomov

Contents

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Fourteenth to sixteenth periodic reports of Israel

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3.05 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention *(continued)*

Fourteenth to sixteenth periodic reports of Israel (CERD/C/ISR/14-16; CERD/C/ISR/Q/14-16; HRI/CORE/ISR/2008)

1. *At the invitation of the Chairperson, the delegation of Israel took places at the Committee table.*
2. **Mr. Leshno-Yaar** (Israel) said that the periodic report under consideration was the product of a broad collaborative effort by different Government ministries and bodies to which numerous non-governmental organizations (NGOs) had contributed. The document, which contained the combined fourteenth to sixteenth periodic reports of Israel, provided detailed information about relevant facts that had arisen since the submission of the preceding report and about legislation, court decisions and policies adopted to combat all forms of racial discrimination. An example of the seriousness with which the State of Israel took human rights matters was the 2011 decision to establish an interministerial team, under the auspices of the Ministry of Justice, to review and follow up on the concluding observations of human rights treaty bodies. Another team had recently been established within the same Ministry to address matters relating to violence committed by Israeli settlers and its severe consequences. Israel was in the final stages of ratifying the Convention on the Rights of Persons with Disabilities, which it had signed in 2007.
3. Before describing the efforts to eliminate all forms of racial discrimination that the Government of Israel had made between 2005 and 2011, through its judicial, legislative and administrative branches, he wished to make two preliminary points. The first concerned the Israeli-Palestinian situation, which remained complex and highly volatile. While the Arab Awakening and the wind of change sweeping the Middle East had given rise to optimism and hope, in view of the ensuing upheavals and the persistent threat of terrorism, extremism and violence, it was important to remain cautious. Against that backdrop, the Israeli-Palestinian issue remained a pressing one and a just, negotiated resolution to the conflict continued to be a priority for the State of Israel. Over the past few months and years, Israel had been the target of devastating attacks originating from Gaza, the West Bank and even the Sinai. The Government hoped that the conflict would be resolved in a respectful and mutually beneficial manner through good-faith negotiations. However, the primary duty of the State of Israel was to uphold and protect the right to life of its citizens, and the Government had had to direct many of its resources to the protection of that right, with obvious security, financial and social implications. The State of Israel was endeavouring to address those challenges while complying with its international obligations and taking into account basic human rights and humanitarian considerations for all sides.
4. The second preliminary point concerned the values of the State of Israel as a nation that was both Jewish and democratic. Those values might be described as antithetical by some but were in fact complementary. Introspection and self-questioning were also Israeli values. Israel was a robust and vibrant democracy in which the media, academia and NGOs all had a role in enhancing the State's accountability and advancing the values and principles espoused by the Convention on the Elimination of All Forms of Racial Discrimination.
5. With regard to the implementation of the Convention, Israel had always been relatively progressive on issues of equality but there remained much to be done to ensure full equality and rights for all the different population groups, particularly the more vulnerable segments of Israeli society. The many actions undertaken by the executive, legislative and judicial branches since the submission of the previous periodic report

reflected the importance that Israeli society as a whole attached to the elimination of all forms of racial discrimination against all population groups in Israel — Jews, Muslims, Christians, Druze and Circassians — and people of all ethnic and religious backgrounds.

6. Following the establishment of the State of Israel, human rights principles had been embedded in a series of basic laws that guaranteed the rights of every person. Recent legislation had been both more wide-ranging in scope and more radical in its underlying principles than some of the legislation of the previous decade. For example, the Expansion of Adequate Representation for Persons of the Ethiopian Community in the Public Service (Legislative Amendments) Act, of 28 March 2011, provided for a drastic expansion in the existing affirmative action scheme applicable to individuals who had been born in Ethiopia or had at least one parent born in Ethiopia. Under the Act, Government ministries and agencies, Government corporations with more than 50 employees and municipalities were required to comply with the affirmative action requirements set out in the Act. Under the amendment, Government corporations and municipalities were also required to submit annual reports to the Government Corporations Authority or the Ministry of the Interior, which in turn reported to the Equal Employment Opportunities Commission. The 2008 Prohibition of Violence in Sport Act had helped to broaden the definition of racist displays and facilitate training for security personnel as well as expanding their responsibilities and powers. The Act had also provided for the establishment of the Committee for the Prevention of Violence in Sports, which worked to eliminate the phenomenon. In addition, criminal law had been amended in 2008 to expressly prohibit participation in any gathering in which racism, including Nazism, was incited or encouraged. That offence carried a penalty of up to 3 years' imprisonment, and any person over the age of 16 who was a member, employee or agent of an illegal association would be sentenced to imprisonment for a period not exceeding 1 year.

7. In the judicial realm, Israeli courts, led by the Supreme Court, played a crucial role in protecting freedom of speech and the right to full equality and in prohibiting discrimination. The Supreme Court ensured that all branches of Government and the private sector operated in accordance with those principles. Approximately 2,000 petitions were filed with the Supreme Court each year, a good number of which related to minority rights. In a 2006 decision, the Supreme Court had upheld a ruling of the Jerusalem District Court under which two defendants had been convicted on charges of violence and assault against an Israeli Arab, sentenced to 3 years' imprisonment and ordered to pay monetary compensation to the victim. In that case, the District Court had attributed special gravity to the fact that the offences were racially motivated and had asserted that the racial element involved should be reflected in the punishment. The Supreme Court had emphasized that there was no room for racially motivated crime in a society that espoused the values of equality and respect for human rights and that any such behaviour must be condemned and repudiated in the strongest terms. It should be noted that the decision in question was in accordance with the recommendation in paragraph 30 of the Committee's previous concluding observations (CERD/C/ISR/CO/13) concerning the right to an effective remedy. In November 2008, the Jerusalem District Court had convicted eight defendants who were members of a neo-Nazi group on charges of incitement, including incitement to hatred. The sentences, handed down as part of a plea bargain, had ranged from 7 years' to 18 months' imprisonment.

8. The Government of Israel had taken unprecedented steps to address the needs of the Bedouin, Druze, Arab-Israeli and other minority groups, to improve their standard of living, to facilitate their social integration and to provide them with social and educational services. The measures adopted in September 2011 in light of the Praver Report were principally geared towards improving the housing situation of the Bedouin in the Negev and fostering their integration in a manner that took account of their cultural and religious sensitivities. In March 2010, the Government had adopted the Five-year Plan for the

Economic Development of Minority Localities to develop the economy, increase employment, improve housing, provide transportation and ensure personal safety and enforcement in 12 Arab, Bedouin, Druze and Circassian localities with a combined population of 370,000.

9. Since 2007, the Government of Israel had been using affirmative action measures to raise the level of representation of minority groups in the Civil Service. As a result of those measures, the proportion of Arab, Druze and Circassian employees in the public sector had increased from 6 per cent in 2007 to 7.8 per cent in January 2012. Furthermore, 11.09 per cent of the new employees who had joined the Israeli Civil Service in 2010 were members of those communities. The past 10 years had also seen a significant increase in the number of Arab citizens working in the Israeli judicial system.

10. Another priority for the Government of Israel was the advancement of Arab women. More and more Arab girls and women were attending high schools and higher education institutes and progress in that area was tangible, if incremental; the heterogeneity of the Israeli population meant that changing attitudes regarding the role of women was more difficult in some segments of the population and required more time, effort and attention. The State of Israel was mindful of the need to refrain from imposing social changes within the various Arab-Israeli communities. The approach adopted thus far had been to attempt to empower those minorities by affording them more opportunities and responding positively to their desire for greater social integration.

11. **Mr. Kut** (Country Rapporteur) said that considering the periodic report of Israel had always been a challenge for the Committee and that the task was even more arduous at the current session because the document submitted by the State party was very lengthy. Although the delegation had indicated that NGOs had been involved in the report preparation process, it was not clear from the report what their contribution had been, and he would like to know whether all relevant civil society organizations had been invited to participate.

12. With regard to implementation of the Committee's previous concluding observations, he noted that in the report under consideration the State party had provided no information on the situation in the occupied Palestinian territories, even though the Committee had drawn attention to that omission after considering the previous report. The State party had also failed to provide information on follow-up to the recommendations contained in paragraphs 15, 17, 18, 20, 27 and 32 of the concluding observations. Information had been provided in response to the issues raised in paragraphs 22, 26, 28, 29 and 31 but more detail was required.

13. He questioned whether the newly established Ministry of Minority Affairs would be able to perform its mandate effectively given that it had a staff of just eight persons and was overseen by the Ministry of Industry, Trade and Labour, which thus exercised two mandates. He sought clarification regarding the manner in which section 134 (c) of the Knesset Code was applied and asked whether that section might not be used to block progress on certain bills.

14. Information about the manner in which the Attorney General's guidelines prohibiting racial discrimination were applied by the relevant ministries would also be appreciated, as would details of any instances in which public officials had been prosecuted for failure to comply with those guidelines and the results of any affirmative action measures adopted since 2008 to encourage the recruitment of women and members of minority groups.

15. He was concerned that Amendment No. 39 of Basic Law: The Knesset, which stipulated that any candidate who had resided illegally in an enemy State during the seven years prior to submission of the list of candidates would be ineligible to stand (for election),

might be used for purposes other than those intended and applied to achieve discriminatory ends.

16. It would be useful to know whether subsection 2A of section 145 of the Penal Law, under which it was a criminal offence to incite racial hatred and advocate the principles of Nazism, had already been applied to punish persons who made racist statements against Arabs. He would be particularly interested to know whether the High Court had issued a judgement in a case pending when the report had been written in which the State had failed to indict two rabbis who had published a book calling for violence against non-Jews on charges of incitement to racial hatred and violence.

17. Clarification was needed regarding the mechanisms in place to prevent discrimination in the allocation of land, and in particular regarding the new land rotation agreement referred to in the report. Israeli Jews were an extremely heterogeneous community from the linguistic, cultural, racial, ethnic and even religious points of view, yet that diversity was not really addressed in the report. Since such diversity could generate tensions, more detailed information on relationships between the different ethnic and religious groups that made up the Jewish majority, including the Ashkenazi, Sephardi and Mizrahi Jews, would be useful.

18. Lastly, he invited the delegation to explain why the State party persisted in affirming that the occupied territories were not under its jurisdiction and that it was not therefore required to report on the implementation in those territories of the international human rights instruments to which it was a State party, when all evidence indicated that the areas in question were effectively under its full control.

19. **Mr. Diaconu**, referring to the existence of “Jewish” and “Arab” localities and distinct sectors for the two population groups, asked whether the communities lived separately of their own volition or as a result of a deliberate Government policy. In his view, there were solutions to the security problem that did not involve prohibiting family reunification.

20. He urged the delegation to explain how the Government justified the regular destruction of entire Bedouin villages in the Negev. In response to the routinely invoked argument that the construction of those villages had never been authorized, it should be remembered that the communities concerned had always lived on that land and were not therefore in a position to produce building permits. He asked whether the Bedouin population had been consulted before being expelled en masse on the grounds that they were an impediment to urban development and whether the State party had attempted to ascertain whether those communities would prefer to maintain their traditional way of life based on agriculture and animal herding instead of being rehoused in urban centres.

21. Highlighting the vast inequalities existing between Arabs and Jews in terms of standards of living and access to health care, education and employment, he urged the State party to continue its efforts to improve the situation in those areas. Referring to paragraph 72 of the report, he expressed concern that Directive No. 1995, which provided that new applicants who wished to reside in small localities could have their application rejected if they were not considered suitable to the social life of the community, could have the effect of promoting the creation of communities composed exclusively of members of the same ethnic group. In his view, that situation should be avoided at all costs. It was also regrettable that asylum seekers and refugees could be classified as infiltrators.

22. While he welcomed the opinion issued on 13 April 2008 in which the Attorney General had ruled that the Mayor of Ramla, Yoel Lavie, could not be promoted to the position of Director General of the Israel Land Administration because of several racist statements that he had made in 2006, he said that it was regrettable that the Attorney

General had decided not to prosecute Mr. Lavie for fear of infringing the right to freedom of expression.

23. Clarification regarding the situation in the West Bank would be appreciated; the Government claimed that the territory fell outside its jurisdiction yet it was the Government that made the decisions to confiscate land, demolish homes and issue building permits. Responsibility for decisions of that kind, and also for decisions concerning access to water and resources, should lie with the local authorities, and not with a foreign Government. He was concerned that the current situation could result in segregation of the Jewish and Arab populations in violation of article 3 of the Convention.

24. **Ms. Crickley** said that, notwithstanding the Committee's previous recommendations, the State party had done nothing to ensure that the definition of Israel as a Jewish nation State did not result in systematic distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin in the enjoyment of human rights, particularly in the areas of access to housing, water and other basic services. The State party had also done nothing to prevent public land from being allocated on the basis of discriminatory criteria.

25. She condemned the practice which the State party classified as administrative detention but was, in her opinion, no more than a form of detention without trial that generally involved discriminatory treatment of members of communities who had already been subjected to discrimination, ostensibly in the cause of fighting terrorism.

26. Welcoming the State party's efforts to combat discrimination against women, including Palestinian and other minority women, in Israel and in the occupied territories, she noted that discrimination against women was sometimes manifested in specific acts, such as violence and other threats to their safety that some girls faced on their way to school, which restricted the enjoyment of fundamental rights. She invited the delegation to comment on that observation.

27. **Mr. Murillo Martínez** said that he failed to understand the opposition from Israel to the Durban Conference and everything that it stood for, as the Conference had resulted in the first universal condemnation of racism, racial discrimination and related intolerance. In the name of the tolerance that it claimed to espouse, he urged the Government of Israel to adopt a less categorical stance.

28. Referring to the concluding observations that the Committee on the Rights of the Child had adopted after considering the initial report of Israel on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in which the Committee expressed concern that in its definition of a child, Israeli legislation continued to discriminate between Israeli children (minors under 18 years old) and Palestinian children in the occupied Palestinian territories (minors under 16 years old), he asked whether the Government of Israel had since adopted a homogeneous definition of the term "child" in conformity with the Convention on the Rights of the Child.

29. Lastly, he asked the delegation to clarify whether the wages of Palestinian women were really 35 per cent lower than those of Jewish women, as some NGOs claimed, and, if so, what the Government was doing to close the gap. Details of measures taken by the State party to ensure that young Bedouins were able to access higher education on equal terms to the rest of the population would also be helpful.

30. **Mr. Thornberry** asked whether acts of "indirect" racial discrimination were punished in the same way as acts of "direct" discrimination and whether the State party had already looked into the issue of structural discrimination.

31. With regard to the correlation between racial and religious discrimination, it would be useful if the Israeli delegation could address the issue of identity. In the specific case of Israeli society, identity was undoubtedly determined by a combination of race, ethnic background and religion, and that situation implied a need to establish a framework for protection against discrimination that extended beyond measures to combat racial discrimination alone.

32. He would like to know the specific prerequisites that must be satisfied before legal proceedings could be instituted on charges of incitement to racial hatred, whether Israeli law expressly criminalized incitement to religious hatred, and, if so, whether NGOs were right in affirming that politicians and senior Government officials were rarely challenged on that ground.

33. In his view, the way that racist hate speech was becoming part of everyday life was potentially very dangerous and called for heightened vigilance. Given that racist organizations should be vigorously opposed, he wished to know whether the Government of Israel intended to ban such organizations and make it illegal for them to operate in its territory.

34. With regard to the Bedouin in the Negev, he would appreciate the delegation's view as to whether it might be possible to have the concept of traditional occupation of land by indigenous peoples enshrined in Israeli law and thus ensure recognition of rights established in international law such as the right to land and, as a corollary, the right not to be expelled from ancestral land.

35. **Mr. de Gouttes** said that the numerous measures adopted and new laws enacted by the State party to combat discrimination and racism were commendable and he was pleased that NGOs had been consulted in the report preparation process. It was regrettable, however, that some of the concerns that the Committee had raised in its previous concluding observations had not been addressed. Those concerns included the fact that, in the Committee's view, the Israeli settlements in the occupied Palestinian territories, in particular the West Bank, including East Jerusalem, were not only illegal under international law but also an obstacle to the enjoyment of human rights by the population as a whole; the fact that, according to the State party, the Convention did not apply in the occupied Palestinian territories and the Golan Heights; and the continued construction of the security wall in the occupied Palestinian territories.

36. He stressed that, when drafting its concluding observations after considering the report, the Committee would undoubtedly ask itself whether certain aspects of the situation in Israel — specifically the security wall, the creation of separate neighbourhoods and sectors for Jews and Arabs, and the construction of separate homes for Israelis, Palestinians and other minorities — were not grounds to conclude that the State party was failing to respect the provisions of article 3 of the Convention prohibiting racial segregation.

37. Further information about the decline in the number of persons of Arab origin working in Government corporations would be appreciated, as would details of the outcome of appeal by the University of Haifa against a ruling in which the Haifa District Court had found that the criteria used to assign places in the University's halls of residence discriminated against Israeli Arabs by making the allocation of a place subject to the completion of military service. He also sought more information about the National Strategic Plan for the Development of the Negev (South) and the Five Year Plan for the Economic Development of Minority Localities.

38. With regard to paragraphs 108 and 109 of the report, an explanation was needed as to why Defence Service Act No. 5746-1986 applied to members of the Druze and Circassian populations but there was no obligatory draft requirement for members of the Arab population. He would also like an update on the current status of the multi-year plan

to improve sewage infrastructure in Arab, Druze, Circassian and Bedouin localities, details of the outcome of the challenge to the constitutionality of Act No. 5763-2003 concerning citizenship and entry into Israel, and an indication of the number of cases of incitement to racism using the Internet that had been laid before the courts.

39. **Mr. Kemal** said that civil society organizations painted a relatively bleak picture of the situation in Israel that was in sharp contrast to the generally optimistic views put forward by the Israeli delegation. Given that the State party described apartheid as an abhorrent practice in its report, the fact that those living in the occupied territories of the West Bank were clearly subject to segregation was anomalous to say the least. Arab communities were placed at a disadvantage by the policies applied by the Israeli authorities, especially by those governing access to land and water, which gave preference to Israeli settlers. Further information on that point would be welcome.

40. Given that Jewish immigrants had the right to settle in the State of Israel even if they had never previously resided there, he would like to know if it would be possible for an Israeli Arab who married a woman from the West Bank to bring his wife to live in Israel.

41. While welcoming the withdrawal of Israeli forces from the Gaza Strip, he said that he wished to draw the delegation's attention to the continuing humanitarian problems caused by the blockade and the fact that the suffering inflicted upon inhabitants was disproportionate to the threat posed to Israel.

42. **Mr. Saidou**, while acknowledging the efficacy and legitimacy of the work done by the Office of the State Comptroller, which also served as the national Ombudsman, asked whether the State party had plans to establish a national institution for the promotion and protection of human rights in conformity with the Paris Principles, as advocated by the General Assembly in resolution 48/134 and by the Committee in its concluding observations adopted in 2007. He would also like to know whether overseas offices of Government corporations had adopted measures to combat racial discrimination.

43. **Mr. Ewomsan**, commending the open-mindedness displayed by the delegation in its introductory statement, said that the Palestinian situation had undermined the efforts of the Government of Israel to eliminate racial discrimination. The security policy applied by the Government of Israel resulted in violations of the rights of Palestinians, whether they lived in Israel or in the occupied territories. The Government must find a way to resolve the conflict and identify a mutually beneficial solution. However, that would assume the existence of a political will which appeared still to be lacking. He would therefore like to know how the State party planned to establish the conditions in which a new policy that was more respectful of human dignity and compatible with the implementation of the Convention might be adopted.

44. **Mr. Amir**, returning to the delegation's assertion that the Convention did not apply in the occupied Palestinian territories, asked how long the Government of Israel would maintain that position and what legal status it accorded to the territories. He emphasized that the State party should give the territories the legal status that would enable them to become a fully-fledged member of the international community and a State party to the different international instruments, including the Convention, in their own right.

45. **Mr. Vásquez** said that additional information on the legal principle underpinning the assertion that the Convention did not apply in the occupied Palestinian territories was needed.

46. **Mr. Lindgren Alves** said that, although it contained a great deal of useful information, the periodic report submitted by Israel far exceeded the permitted page limit. He reminded the delegation that States parties were required to respect that limit. A number of NGOs had indicated, in relation to article 3 of the Convention, that the situation in the

occupied Palestinian territories was very similar to the system of apartheid practised in South Africa. Although he did not entirely share that opinion, segregation did appear to exist in Israeli schools. He asked whether a Jewish child had the right to enrol in an Arab school and vice versa.

47. **Mr. Leshno-Yaar** (Israel) commended the Committee members for the pertinence of their comments and questions. As the questions concerning the application of the Convention in the occupied territories and the construction of the security wall had been answered by the State party on many previous occasions as part of the process of reporting under the various international instruments, there was perhaps no need to review those issues at the present time. However, the delegation would address them at the next meeting, if the Committee thought necessary. He believed that it was inappropriate to centre the discussion on political issues and was pleased that the questions raised by the Committee had for the most part focused on the application of the Convention in Israel, and not only in the occupied territories.

The meeting rose at 6 p.m.