



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination Sixty-sixth session

Summary record of the 1690th meeting

Held at the Palais Wilson, Geneva, on Friday, 4 March 2005, at 10 a.m.

Chairperson: Mr. Yutzis

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The meeting was called to order at 10.10 a.m.

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

Sixth and seventh periodic reports of the Kingdom of Bahrain (CERD/C/443/Add.1) (continued)

1. *At the invitation of the Chairperson, the members of the delegation of Bahrain resumed their places at the Committee table.*
2. **Mr. Al-Boainain** (Bahrain) said that a single case of racial discrimination, the so-called case “of the 1,203”, had been brought before the country’s courts, in that particular instance the Constitutional Court, which had delivered its judgement on 1 April 2004. However, the small number of cases of racial discrimination brought before the courts did not mean that the law was little known in the country or that its citizens were ignorant of their rights. For a long time, numerous efforts had been made to raise public awareness and inform citizens of their fundamental rights and freedoms.
3. The Bahraini Human Rights Association had recently organized a “Fair Trial” workshop, in which a large number of civil society organizations and members of the legal service had participated. Training courses, in English, on human rights had also been arranged for members of the legal service and workshops were regularly organized for them in Italy and France. Close ties were also maintained with the Bar Associations in the United States, France and Egypt. A workshop on the development of Bahrain’s national human rights action plan had been held on 14 and 15 April 2004, followed by a training seminar for the law enforcement agencies held from 17 to 21 April 2004.
4. Under article 26 of the Constitution, freedom of postal, telegraphic and telephonic communication was guaranteed, but communications could nevertheless be censored and their contents disclosed in the exigencies defined by law. It was by virtue of that constitutional provision that the police authorities were empowered, with the prior agreement of a court of first instance, to carry out controls in post offices and seize any letters or correspondence that might be useful for establishing the truth in criminal cases.
5. The Judicial Authority Act, promulgated by Legislative Decree No. 42 of 2002, provided for a three-tier system of courts: courts of first instance (lower and higher, together with enforcement courts); civil courts of appeal; and the Court of Cassation. Moreover, courts were divided into two categories: civil courts, which were competent to hear civil and criminal cases, and Shariah courts, which adjudicated on matters of personal status and capacity, in particular, in disputes relating to divorce, marriage, child custody and inheritance.
6. A bill on the reform of the labour market aimed at simplifying the procedures in administrative disputes between employers and employees was before Parliament. Another bill on conciliation and arbitration was being studied.
7. **Ms. Abdul Rasool** (Bahrain) said that there were no exceptions to the principle established in article 18 of the Constitution according to which: “People are equal in human dignity and citizens are equal before the law in public rights and duties. There shall be no discrimination on the basis of race, origin, language, religion or creed.”
8. She added that her country had not had to deal with any disputes relating to the definition of racial discrimination. If any such cases had been brought before them, the courts would have been obliged to apply article 1 of the Convention, which had the force of law since the Convention had been ratified by Bahrain. Neither were the authorities aware of any cases in which the Bahraini courts had had explicitly to invoke the provisions of the Convention.

9. Legislative Decree No. 44 of 2002 had amended certain provisions of the 1989 Associations Act but had not restricted the right of association. Article 172 of the Penal Code made it a punishable offence for anyone publicly to incite hatred or contempt for a group of persons if such incitement was liable to disrupt public order. That article of the Penal Code had no impact on the law governing the activities of associations since it was aimed solely at punishing incitement to hatred, whether individual or collective.

10. With regard to the penalties established by the Penal Code for the offence of publishing anything liable to stir up intercommunal strife, she explained that the International Convention on the Elimination of All Forms of Racial Discrimination had been incorporated into the country's legislation and was therefore binding on all authorities. Consequently, failing to comply with the Convention was an offence that made the offender criminally liable. However, as the Convention had not established penalties applicable to violations of the rights it proclaimed, Bahrain applied the corresponding penalties specified in its Penal Code.

11. Citizens could also lodge complaints with Ombudsman's Office attached to the Royal Court of Complaints and appeal to the Complaints Committee of the Chamber of Deputies. Moreover, the Ministry of the Interior was studying the possibility of setting up a board to examine complaints of racial discrimination and violation of fundamental rights and freedoms.

12. Furthermore, Legislative Decree No. 47 of 2002 on the press, printing and publishing had taken into account the recommendations of the Committee on the Elimination of Racial Discrimination according to which the prohibition of racial discrimination should not be limited to actions contrary to public order or morality, but should also extend to those that stirred up social or intercommunal strife. The decree prohibited journalists from disseminating racist propaganda or messages that expressed contempt for or hatred towards other religions or advocated discrimination against or disparaged the views of any confessional group.

13. Bahrain, which was engaged in a process of democratic transition, also envisaged making the declaration mentioned in article 14 of the Convention and thereby recognizing the competence of the Committee to receive and consider communications from individuals claiming to be victims of a violation of the rights set forth in the Convention.

14. Replying to a question from Ms. Dah, she stated that, under Bahrain's Nationality Act of 1963, the children of a Bahraini woman married to a foreigner did not automatically acquire Bahraini nationality. However, a bill to amend the existing legislation had recently been submitted to Parliament.

15. **Mr. Abdul Karim** (Bahrain) said that he was not in a position to provide any further information about the ethnic composition of the population in Bahrain over and above that contained in the report (par. 29 and Table 1, p. 9). In fact, it was not possible to establish the precise ethnic origin of native Bahrainis, who were the fruit of cross-breeding between peoples of Arab origin and other peoples who had passed through Bahrain or settled there, as there was no legislation authorizing distinctions based on ethnic descent. Thus, the central agency responsible for taking censuses of the Bahraini population had no information on ethnic composition since that criterion was not taken into consideration in any census. Accordingly, Bahrain was unable to provide the Committee with disaggregated data on the socio-economic living conditions of the various ethnic groups. However, he pointed out that the Government's policies were based on the integration of everyone living in Bahrain into the social fabric without discrimination and that also applied to economic policies. He also noted that in the United Nations Development Programme's Human Development Report for 2003 Bahrain ranked thirty-seventh and stood at the head of the Arab countries.

16. With regard to the adoption of a national human rights plan, in the spring of 2004 the Ministry of Foreign Affairs had organized a workshop, in collaboration with the Bahraini Human Rights Association and Arab institutions for the protection of human rights, with a view to drawing up a national plan for the promotion of human rights for Bahrain. People from very different backgrounds had participated and the workshop had led to the Declaration of Principle of Manama, which encouraged the Government and the private sector to create a genuine partnership for the purpose of drawing up a national plan for the promotion of human rights, in conjunction with all the actors in society working to promote those rights. A draft was being prepared and would shortly be submitted to the Cabinet of Ministers.

17. Concerning the incorporation into domestic law of a definition of racial discrimination and penalties for acts based on it, he said that some deputies in the Consultative Council had made a proposal to that effect which, after consideration by Parliament, had been rejected as unconstitutional. However, it would be possible for a new proposal to be submitted and adopted before the next elections.

18. With respect to the implementation of the Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, he stressed that the Bahraini Government was determined to take the contents of that declaration scrupulously into consideration in all the national programmes it adopted in the field of human rights.

19. After briefly recalling the functions of the Human Rights Committee (par. 74 of the report), he explained that the Consultative Council, together with all its dependent bodies, including the Committee, had been dissolved following the adoption of the 2001 Constitution. Accordingly, within the context of the process of restructuring of the public institutions, the Ministry of the Interior and the Ministry of Foreign Affairs had created a department responsible for human rights to take its place and had reviewed all the activities previously carried out by the Human Rights Committee.

20. Where Bahrain's efforts to raise awareness of human rights were concerned, he noted that in April and October 2004 seminars had been organized with a view to preparing the human rights reports. Moreover, the Ministry of the Interior and the Human Rights Committee had jointly organized human rights training workshops for law enforcement officers and teachers. Similarly, seminars on the media and human rights for television and radio professionals had been organized by the Ministry of Information, in collaboration with the Human Rights Committee and the Arab Institute of Human Rights. In addition, a joint seminar on combating violence against women, covering the entire Gulf region and not just Bahrain, had been arranged by the Higher Council for Women and Amnesty International.

21. Furthermore, efforts had been made to establish cooperation between the United Nations Commission on Human Rights and local and international organizations with a view to making the public better acquainted with human rights and strengthening collaboration between the national and international actors working in the field.

22. With regard to the participation of civil society in the preparation of the report, an independent expert and a foreign consultant had read and commented on the report before it was submitted to the Committee and that their observations had been taken into consideration. Moreover, there were in Bahrain numerous associations for the protection of human rights, including the Bahraini Human Rights Association, the Human Rights Monitoring Committee, which was attending the current meeting as an observer, and the Committee on the Rights of Migrant Workers. Finally, concerning the prospects for Bahraini accession to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, he said that the

Government had studied the question and had submitted an accession bill to the Legislative Council, for approval.

23. On the subject of the protection of migrant workers, **Ms. Al-khalifa** (Bahrain) said that, in accordance with a decision adopted in 2002, workers could change employer even if they were under contract. Moreover, to combat human trafficking, information brochures had been distributed in airports and in embassies in Bahrain and abroad. Those brochures contained useful information for migrant workers, in particular, the telephone numbers of hotlines that exploited workers could use to report their employer. In such cases, inspections were carried out at the workplaces concerned and the person who had reported the abuse had to reveal his or her identity. Finally, there was a joint committee, consisting of officials from the Ministry of Labour and the Ministry of the Interior, which had been given the task of protecting migrant workers and helping them to solve their problems.

24. The statistics on human trafficking showed that 45 cases of that type had led to an investigation. Complaints relating to wages came under article 165 of the Penal Code and, if the employer was found guilty, he could be sentenced to pay the wages retrospectively, together with damages and interest. On the other hand, there were, at present, no statistics available concerning complaints lodged by domestic servants who were victims of physical, in particular sexual, violence. The Penal Code contained provisions for punishing physical violence, sexual harassment and sexual abuse, which anyone, including foreign domestic servants, could invoke before the courts.

25. Remedies were available to workers who considered themselves to be the victims of a violation, article 155 of the Labour Code providing for the possibility of lodging a complaint with the Ministry of Labour. If the dispute was not settled amicably within two weeks, the case was referred to the competent courts. Domestic workers and those employed in agriculture could also invoke that provision but, if the case could not be settled amicably, it was referred to the civil courts. In cases in which those categories of workers were not protected under the Labour Code it was the Civil Code that applied. According to the statistics, in 2004, a total of 1,012 complaints had been lodged with the Ministry of Labour by non-nationals. With regard to the lack of an explicit reference to discrimination in the Labour Code, she explained that that defect in the law could be overcome, where necessary, since the provisions of the Convention could be directly invoked. Moreover, the Labour Code had been entirely revised by the Ministry of Labour, the trade unions and the employers' associations and the resulting draft had been forwarded to the International Labour Organization for review. The latter's comments had been taken into account in the final version of the text, which the competent authorities were examining with a view to its adoption. Finally, with respect to the opportunities for foreign workers to join a trade union, she stated that there were no restrictions on non-nationals, who were also free to form cultural associations. Thus, there were 42 cultural associations for foreigners living in Bahrain, together with 32 clubs and 15 churches.

26. **Mr. Mushen Al Alawi** (Bahrain), replying to allegations according to which Shia of Persian origin had been subjected to discrimination, pointed out that that question did not really fall within the Committee's mandate, which concerned racial discrimination, and that, moreover, the allegations were unfounded. As evidence of that he adduced, in particular, two facts, namely, that Bahrain had two ministers who were Shia of Persian origin and that the Shiite minority was not over-represented in the unemployment statistics. Moreover, he disputed the statement according to which those people were not free to choose their place of residence, since there was no legal provision to that effect. Shia and Sunnis had always lived together peacefully and it could not be said that sectarian tension existed.

27. Similarly, with regard to the Bedouins, he explained that, as they were a people who had originally lived in the desert and had had no nationality, there was a tendency to

confuse “Bedouin” with “stateless”. Since the start of the reform process, 98 per cent of the Bedouins, who were of Iranian origin but had lived in Bahrain for generations, had been naturalized. The case of the remaining 2 per cent was being examined and would be settled as soon as possible.

28. The Ministry of Labour was currently studying the possibility of Bahrain acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and, within that framework, was organizing consultations with the other countries of the Gulf and ILO experts. He pointed out that Bahrain differed from the rest of the world inasmuch as 90 per cent of its labour force was of foreign origin. Thus, granting nationality to all the foreign workers present on its territory would have the result of “denaturing” Bahraini society. That said, Bahrain would examine possible ways of cooperating with the labour-exporting countries to ensure that migrant workers were protected.

29. **Mr. de Gouttes** welcomed the spirit of openness which had characterized the dialogue between the Bahraini delegation and the Committee and the seriousness with which the delegation had replied to the questions from Committee members. He added that the Committee could only welcome the State party’s intention to ratify the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. Finally, he asked what measures the State party was intending to take to bring the current report and the Committee’s concluding observations to the attention of its people.

30. **Mr. Shahi**, noting that the working conditions of domestic servants were governed not by the Labour Code but by the Civil Code, wished to know what protection the latter offered to women and, in particular, whether it provided for penalties for violence against them. He also noted that although the Convention could be invoked before the Bahraini courts, law officers and judges could only prosecute and punish the perpetrators of acts of racial discrimination to the extent that those acts were prohibited by the national legislation. He therefore stressed the need for Bahrain to align its national legislation on the Convention in that respect.

31. **Mr. Kjaerum** welcomed the process of democratization, in which the State party was engaged, and the adoption of the National Action Charter and the national human rights action plan, which were all promising signs. In that context, he found it particularly surprising that the Government should have ordered the dissolution of the Bahrain Centre for Human Rights solely for having organized a human rights seminar. He considered that to have been a particularly drastic measure and deplored the fact that the only NGO to have submitted a parallel report on the rights of interest to the Committee should have been dissolved. He would like to hear the delegation’s observations on that point.

32. **Mr. Pillai** greeted the efforts by the State party to improve the reporting procedure and to organize workshops and seminars on human rights.

33. He was concerned about the apparent difference in treatment, where wages were concerned, between nationals and non-nationals of the countries of the European Union and asked for further information.

34. In view of the particularly large number of complaints (more than 2,000 in 2003) concerning labour law brought before the competent courts, he wished to know whether the NGOs which helped victims of discrimination to obtain redress had had to deal with complaints of sexual harassment brought by women and whether it was true that the main NGO responsible for assisting women who found themselves in that situation had had its funds confiscated.

35. Finally, he enquired whether the Bahraini Government had thought about the long-term implications of the 2002 decree on the granting of dual nationality.

36. **Mr. Thornberry**, citing paragraph 13 of the report, according to which “the Islamic Shariah is a principal source of legislation”, asked the delegation whether that meant that the Shariah was a “source of inspiration” for the national legislation or that it was regarded as a body of legislation in its own right. Moreover, it would be interesting to know the place of the Constitution in the domestic legal system and whether the Shariah applied to Muslims and non-Muslims alike.

37. **Mr. Amir** observed that, in most countries, power was entrusted to those who seemed best able to meet the needs of the population on the basis of a political, economic, social or cultural programme. In no case should the question of the ethnic origin of the candidates be taken into consideration.

38. **Mr. Abdul Karim** (Bahrain) said that his country would try to disseminate the provisions of the Convention as widely as possible, together with the report being considered and the Committee’s concluding observations, in particular via the web site of the Department of Legal Affairs of the Ministry of Foreign Affairs. That department had, moreover, been instructed to study the question of accession to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which, if ratified, would add to the long list of treaties to which Bahrain was party.

39. **Ms. Abdul Rasool** (Bahrain) said that, in the civil and administrative spheres, the Shariah was the only source of legislation and applied to every citizen, whereas in all matters relating to the family, marriage or inheritance, it applied only to Muslims.

40. **Ms. Al-Khalifa** (Bahrain) explained that, in the absence of a contract of employment, relations between employers and employees were governed by the Civil Code.

41. **Mr. Al Alawi** (Bahrain) said that the Centre for Human Rights had been closed down under the Bahraini legislation which authorized the dissolution of any association whose activities constituted a threat to the security of the State, since it was engaging in activities contrary to its statutes and the interests of the State. The Government had given those who ran the Centre several warnings, but they had continued issuing calls for violence, including a call to murder the Prime Minister. In general, the non-governmental organizations worked entirely independently and the authorities merely asked them to remain impartial in the exercise of their responsibilities. For example, the Bahraini Human Rights Association, which consisted exclusively of members of the political opposition, was working extremely effectively on behalf of human rights and collaborating closely with the competent ministries. That was also true of the Association for Migrant Workers, which was being supplied with public funds to provide migrant workers with a wide range of services.

42. **Mr. Aboul-Nasr** said he would like to receive further information from the delegation concerning the death threats made against the Prime Minister.

43. **Mr. Al Alawi** (Bahrain) said that it was within the context of a religious gathering that officials of the Centre for Human Rights had called for the murder of the Prime Minister. However, that was only one example of many irresponsible acts in which the Centre had engaged for the purpose of disrupting public order. Despite all the importance that the Bahraini Government attached to the some 190 civil society associations, it could not tolerate such attacks on the security of the State.

44. **Mr. Boyd** (Rapporteur for Bahrain) welcomed the seriousness with which the Bahraini delegation had replied to the questions from Committee members and the obvious intention of the State party to spare no effort to improve its implementation of the International Convention on the Elimination of All Forms of Racial Discrimination. On the

positive side, he greeted the ratification by Bahrain of the Convention on the Elimination of All Forms of Racial Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and ILO Convention No. 111 on Discrimination (Employment and Occupation). In general, Bahrain seemed to be determined to increase its cooperation with the international human rights bodies and to adopt measures that would enable it to fulfil its obligations under the international treaties recently ratified. He also noted with satisfaction that Bahrain was planning to establish a national human rights institution and had adopted a National Action Charter based on democratic principles.

45. On the negative side, he regretted that the delegation had provided very little specific information about the human rights situation in the field and urged the State party to include in its next periodic report detailed examples of sentences handed down by the courts under the anti-discrimination legislation. He recalled that the Committee needed statistical data broken down by race, ethnicity or religion in order to be able to gain a better understanding of the situation in the country in relation to the Convention. He also exhorted the State party to strengthen its cooperation with civil society and to respect freedom of expression, particularly that of the non-governmental organizations which provided the Committee with information, even if it considered that information to be false. Finally, he urged Bahrain to ratify the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and to make the declaration mentioned in article 14 of the Convention.

46. **Mr. Al Alawi** (Bahrain) said that his country was relying on the Committee to help it to continue along the path of democratization and noted with satisfaction that its members had understood that Bahrain had reached a turning point in its history and had undertaken major reforms in order better to discharge its international obligations. He had noted with interest the written information forwarded to the Committee by Bahraini non-governmental organizations and assured the Committee that all the suggestions and recommendations made by its members would be duly communicated to the Bahraini authorities.

47. **The Chairperson** declared that the Committee had thus concluded its consideration of the sixth and seventh periodic reports of Bahrain.

48. *The delegation of Bahrain withdrew.*

The meeting rose at 1.05 p.m.