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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 1689th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 3 March 2005, at 3 p.m.

Chairman: Mr. YUTZIS

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

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

1. At the invitation of the Chairman, the members of the delegation of Bahrain took places at the Committee table.
2. Mr. AL ALAWI (Bahrain), introducing the sixth and seventh periodic reports of the Kingdom of Bahrain (CERD/C/443/Add.1), said that his country's human rights achievements in recent years had been the fruit of its gradual modernization. Progress had been made in the political, social, economic and legal spheres. Following a referendum held on 14 February 2001 in which the National Action Charter had been adopted by 98.4 per cent of voters, Bahrain had become a constitutional monarchy. Royal Decrees issued in July 2002 had approved laws on the exercise of political rights and the Shura (Consultative) and Parliamentary Councils. Municipal and parliamentary elections had been held in May and October 2002 respectively.
3. In the parliamentary elections, women had for the first time been able not just to vote but to stand for election; although they had not won any seats, that situation would undoubtedly change in future ballots. In November 2002, the members of the Consultative Council had been appointed, including six women. Bahrain had acceded to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women in 2002. The role of women had also been enhanced by the Supreme Council for Women, which worked to defend women's rights. Bahrain had also taken important steps towards involving women in decision-making by appointing two women ministers, Health Minister Ms. Nada Haffadh and Social Affairs Minister Ms. Fatima Al Balooshi.
4. A labour union law passed in 2002, which had been drafted in consultation with all concerned parties and on the advice of international experts, had led to the establishment of trade unions for the first time. A Constitutional Court had also been established. The Judicial Authority Act had provided for an independent Department of Public Prosecutions, which had begun its work in 2003. The Act also confirmed the complete independence of the judiciary from the executive.
5. Steps had been taken to enhance the status of civil society; there were now more than 390 NGOs in the country. That commitment to civil society served to underpin democratic procedures and was a cornerstone of change. Bahrain was determined that the implementation of its human rights agenda would not be affected by instability in the region.
6. Bahrain's commitment to the International Convention on the Elimination of All Forms of Racial Discrimination reflected its deep-seated belief in the principle of non-discrimination. The new Constitution espoused the principles of democracy, equality and the rule of law, and both the Constitution and Islamic Shariah law confirmed the equality of all human beings. Bahrain had never known xenophobia or racism, only tolerance and brotherhood.

7. Under article 37 of the Constitution, all international treaties to which Bahrain was a party automatically became domestic law. The Convention was therefore binding on all authorities; any failure to comply with it constituted a breach of law and entailed criminal responsibility if a crime had been committed. Article 172 of the Penal Code stipulated that it was a punishable offence for anyone to publicly incite in any manner whatsoever hatred or contempt for a group of persons. Although incitement was not criminalized per se, it was covered by other offences such as libel. Article 38 of Act No. 47 of 2002 stipulated that journalists must refrain from propagating racist propaganda, while article 69 of the same Act established penalties for any publication containing such material. Legislative Decree No. 44 of 2002 prohibited organizations from carrying out activities that were incompatible with the principles of the faith or unity of the nation or that stirred up discord or intercommunal strife.
8. Bahrain was a country that admitted foreign workers to meet demand. Foreigners in Bahrain were treated with respect, as their contribution to the country's economy was recognized. Resident foreign workers had the right to join trade unions in the sectors in which they were employed. The Bahraini legal system did not discriminate between the rights of nationals and foreigners. Complaints or conflicts could be submitted to the Ministry of Labour; if a complaint could not be resolved, it was referred to the civil courts, without any fee being incurred. A violation of the Convention was deemed to be a violation of the law of the Kingdom, and legal assistance was guaranteed to all. In addition to other complaints mechanisms, any Bahraini or non-Bahraini could submit a complaint to the King. There was also an NGO that specialized in the rights of workers.
9. The principle of equality enjoyed constitutional protection in Bahrain. The country's commitment to non-discrimination in general and to the Convention in particular had been publicized through the media, civil society and the education system. Bahrain had consistently declared in regional and international forums that it rejected racial discrimination in all its forms. It was keen to cooperate with the Committee and to benefit from the process of dialogue with a view to achieving the goal of efficient implementation of the Convention.
10. Mr. BOYD (Country Rapporteur) welcomed the members of the delegation. Having commended Bahrain for its ratification of a number of international instruments, he noted that Bahrain had not yet made the declaration under article 14 and encouraged it to do so. He also encouraged Bahrain to continue the excellent progress it had made since the current King's accession to the throne by considering ratification of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
11. Having acknowledged the significant reporting burden that Bahrain's international obligations must impose on such a small country, he said that it would be helpful to the Committee if the delegation could provide disaggregated data on ethnicity, religious affiliations and language affinity, together with information on the relative socio-economic status of members of distinct ethnic, religious and language groups. He explained that although the scope of the Convention did not extend to religion specifically, religion was often linked to ethnicity

and descent. Such information was particularly important in view of reported disparities in the treatment and employment opportunities of some non-Arabic and non-English speakers. He noted that the Shi'ah Muslim population, which made up 70 per cent of the total population, appeared to be less well represented in Bahrain's civic and economic mainstream.

12. Although the report was detailed in certain areas, the Committee would welcome concrete examples of how particular laws were applied in practice by the competent authorities. The Committee appreciated that in some important respects the State party had given effect to certain of its previous recommendations. However, there was more substantive work to be done by the State party for it to meaningfully implement the provisions of the Convention through its legislative regime and to report the results of that work.

13. Regarding article 1 of the Convention, the Constitution established the principle of equality and non-discrimination which conformed to the provisions of the Convention. He would be interested to hear whether there were any exceptions to that principle in the State party's domestic law. According to the report, the national legislation did not contain any provision based on racial discrimination, but he wondered if that was true for all laws, ordinances and regulations, including widely applicable regional, local or religious provisions.

14. In connection with article 2, he noted from the report that the Bahraini Human Rights Committee (HRC) appeared to have had a very ambitious programme of work and therefore wondered why it had been abolished. Had there been any effort to reconstitute or replace it? Or had its work been taken up by another body? He would be interested to hear examples of what had been accomplished by the HRC, particularly whether it had identified any shortcomings in domestic legislation on the elimination of racial discrimination, and what ameliorative measures it had recommended. He would welcome information on whether the HRC had conducted any research on human rights or racial discrimination in the State party and, if so, what conclusions it had reached and whether the results had been published. And, he wondered if any of the HRC's work had been a factor in its dissolution.

15. He asked whether any national plan for human rights was envisaged and, if so, when it was likely to be adopted. He wondered whether any legislative, judicial or administrative measures were being formulated to further implement article 2, as concerns had been raised about the adequacy of legal anti-discrimination protection in the State party.

16. Concerning article 3, he noted that the State party repudiated segregation, apartheid and those States that countenanced such practices. According to NGO sources, however, Shi'ah Muslims and Bahraini citizens of Persian descent were prohibited from living in the district of Riffa, which was tightly controlled by the Royal Court. Was there outright exclusion or were different standards applied to their applications to live there? He would be interested to hear the State party's views on that matter.

17. As to article 4, he noted that the State party had taken account of the Committee's previously expressed concern, and that the current prohibition of discriminatory speech and actions was no longer limited to those situations that were contrary to public order. Legislative Decree No. 44 broadened the prohibition by making discriminatory activities unlawful to the

extent that they were incompatible with national unity or stirred up discord or intercommunal strife. Although that formulation was an improvement, he wondered whether the activities must actually disrupt national unity or stir up discord, or whether mere intent was sufficient. He would also be interested to learn whether that Decree or any other recent legislation similarly extended the scope of article 172, of the Penal Code, which outlawed public incitement to discriminate or to engender hatred or contempt for a group only if such incitement was likely to disrupt public order. Had any thought been given to eliminating that limitation or making legislative amendments generally to enhance protection against racial incitement?

18. With regard to article 5 (e), the Constitution guaranteed fair and equal treatment for national and foreign workers alike. In addition, the Private Sector Labour Code provided for equality for all workers. He would be interested to hear how those provisions and other pertinent anti-discrimination laws actually worked in employment settings. The Constitution also established the right to seek legal redress, but an aggrieved worker must first submit a formal complaint to the Ministry of Labour, with a view to settling the dispute in an amicable manner. Only after that process had been exhausted without resolution did the complaint proceed to adjudication. He would be interested to hear more about that alternative dispute resolution mechanism. According to the report, it was an effective and efficient way of resolving disputes. However, he wondered why settlement rates seemed to be considerably higher for Bahraini workers than for non-Bahrainis.

19. Although the report provided statistics on complaints filed by Bahrainis and non-Bahrainis, the information had not been further disaggregated by race, ethnicity, religion, national origin or language; nor did it provide any information on the resolution of the complaints referred for adjudication or the available sanctions, remedies and redress. He would welcome further information on that question.

20. According to the report, the State party had taken steps to protect foreign workers, especially from arbitrary and capricious treatment by employers. He would welcome elaboration on that issue. For example, had any employers been sanctioned?

21. He would be interested to hear the delegation's comments on the concerns raised by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance about the possible direct or indirect discrimination in the functioning of the administration itself. For example, Shi'ites held less than one quarter of the well-paid civil service jobs, even though they constituted the majority of the population, and artificial limitations might be placed on Shi'ite students seeking admission to universities. If true, those concerns also implicated article 2 of the Convention, given that they involved State action.

22. He noted the very favourable recent developments with regard to the Bidoon (persons without nationality), who were Farsi-speakers of Persian descent. The State had recently granted Bahraini citizenship to several thousand Bidoon, even paying for the return of several hundred who had been outside Bahrain. He wondered whether that move had been accompanied by any special measures to deal with the high levels of unemployment and underemployment among that group, and the Shi'ah population more generally. Did the Government acknowledge

concerns that had been raised about disparate employment and housing opportunities for the Shi'ah and, if so, did it consider that there could be a religious, racial or linguistic dimension to those alleged diminished opportunities? And what action was envisaged in that regard?

23. In connection with article 6, he would welcome information on the number and nature of discrimination cases brought before the courts, and their resolution. If there were none, or very few such cases, he wondered whether the State party had considered the possibility that that was due to victims' lack of knowledge about their legal rights, a lack of confidence in the authorities' commitment to discrimination cases, or the perceived incapacity of the justice system to effectively handle those matters?

24. Referring to article 7, the report detailed a number of positive aspects, including universal free education for all, without regard to race, ethnicity, national origin or gender, and the inclusion of human rights and the elimination of racial discrimination among the important subjects in school curricula at the preparatory and secondary levels. The elimination of racial discrimination was further promoted through the use of Islamic educational curricula, which emphasized the need to reject anything that was likely to give rise to such discrimination and urged students to resist all forms of discrimination. He wondered whether there was a component on the need to tolerate and embrace diverse religious beliefs and practices.

25. Lastly, given that concerns had been raised on that point, he would be interested to learn whether there were any specific training programmes, seminars or courses for members of the judiciary, law enforcement officials, teachers, social workers and other public officials with respect to the Convention.

26. Mr. VALENCIA RODRÍGUEZ asked what practical effect the application of the principles contained in the National Action Charter had on efforts to combat racial discrimination.

27. Referring to article 4 of the Convention, he would be interested to hear whether there had been any cases where that provision had been invoked and implemented. Regarding section III, title I, of the Code of Criminal Procedure, which stipulated that anyone who was arrested must be treated in a manner that preserved his human dignity and must not be subjected to physical or mental harm, he wondered if the reference to "anyone" included all foreigners, whether legal or illegal residents.

28. Concerning the situation of women, article 5 of the Constitution provided that the State must ensure that women were able to reconcile their family obligations with work outside the home. He would welcome an explanation of which aspects were excluded by virtue of the application of Shariah law. He would also be interested to hear the results achieved through the application of the six points adopted by the Higher Council for Women. The fact that important senior posts in many ministries and public bodies were occupied by women was very positive and that policy should be promoted.

29. Regarding the possibility of monitoring electronic correspondence by means of a court order, he wondered if there was also the possibility of monitoring the dissemination through the Internet of racist ideas or ideas contrary to public order.

30. He would be interested to learn how mixed marriages - between a citizen of Bahrain, presumably protected by Shariah law, and a citizen of another country - were regulated. Similarly, with regard to inheritance, he wondered whether there was any difference in treatment if an inheritor was not a Bahraini citizen. Concerning the freedoms of opinion, scientific research and the press and the freedom to form associations, he wondered what influence Shariah law had on the exercise of those rights with regard to foreigners.

31. On the question of equality in employment, he wondered if there were any differences in men's and women's remuneration for the same work, particularly in the case of domestic workers. Regarding equality between national and foreign workers, he wondered whether there were any special requirements foreign workers must fulfil in order to join a trade union. Did foreign workers have access to financial assistance from the Government to facilitate the rental or purchase of a house?

32. Mr. de GOUTTES said that the legislative and political reforms in Bahrain should be commended. Statistics on the different ethnic groups resident in the State party would be appreciated. The Committee would also welcome further information on discrimination against Shi'ah Muslims and Persians. He asked what measures were being taken to protect the State party's large foreign workforce against arbitrary treatment by employers, and in particular how foreign women were protected against violence and sexual abuse.

33. The Committee wished to know why the national Human Rights Committee had been disbanded, since it had made important progress on issues such as women's rights and housing, and whether the Government planned to establish an institution to replace it. Although fines had been introduced as punishment for the dissemination of racist propaganda through the media, that measure did not constitute total implementation of article 4 of the Convention. Efforts must be made to strengthen procedures for the prohibition of incitement to racial hatred, and to include specific references to racism in the Penal Code. There was evidence that NGOs were playing an increasingly important role in raising public awareness of human rights issues and the international instruments to which Bahrain was party, and he wondered what was the relationship between those organizations and the Government, and whether they had been involved in drafting the report currently before the Committee.

34. He asked whether Shariah law maintained certain provisions that could be considered discriminatory against women, and how many schools existed for foreign, non-Muslim children. The Committee wished to know whether the Government intended to ratify the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Further information should be provided on human rights training for law enforcement officials, and on the Government's methods of disseminating the content of the State party report and the Committee's concluding observations.

35. Mr. SICILIANOS said the Committee welcomed the fact that Bahrain had recently ratified a number of international human rights instruments. He wished to know whether the definition of discrimination contained in the Constitution was compatible with that in article 1 of the Convention. A committee of ILO experts on discrimination had visited Bahrain and reported that there was no definition of discrimination in the Labour Code. He wished to know whether

the Code was being, or would be, revised to rectify that. The Committee had been informed that the Labour Code was not applied to domestic, temporary and agricultural workers, and he wished to know how their rights were guaranteed.

36. Further information should be provided on whether a new national human rights committee would be established in future. CERD had adopted general recommendation XXX on the rights of non-citizens, in which it had urged Governments to ensure that non-citizens were not discriminated against when applying for citizenship or residence permits. He asked whether there was a difference between assessment criteria for citizenship applications filed by Arabs and those filed by non-Arabs. The general recommendation also urged States to allow children with parents of different nationalities to inherit both those nationalities. He wished to know whether Bahraini women with foreign husbands were allowed to pass their nationality on to their children.

37. Mr. AMIR said that over the 30-year period since gaining independence, Bahrain had developed into a democracy with a constitutional monarchy, and its economic progress had received international recognition. Efforts had been made to ensure that members of all religions lived in peace and democracy. Although some progress remained to be made in order to ensure full implementation of the Convention, that was only to be expected in an emerging democracy, and Bahrain should be held up as an example of a tolerant and integrated society.

38. Mr. TANG Chengyuan asked what the main criteria were for granting Bahraini citizenship. He wished to know whether foreign workers who had been resident in Bahrain for over 10 years were granted citizenship or permanent residence permits. The Committee would be interested to hear how Bahrain had succeeded in integrating the large number of foreigners who worked in the country. He asked what were the procedures if a legal case involved a Muslim party and a non-Muslim party, and in particular whether such a case would be tried in a Muslim or non-Muslim court and under State or Shariah law.

39. Ms. DAH commended the Kingdom of Bahrain for having ratified the amendment to article 8 of the Convention, not having submitted any reservations, and having incorporated the Convention into its domestic legislation. She asked whether the Government planned to make a declaration under article 14. Although the Committee welcomed Bahrain's ratification of the Convention on the Elimination of All Forms of Discrimination against Women, it wished to know why women, despite having been highly involved in voting and election processes, did not occupy any seats in the National Assembly. Perhaps positive discrimination could be used to give women more impetus on the political scene. Statistics should be provided on the number of women working in the administration of justice, and the Committee would appreciate further information on women's access to property and inheritance.

40. It seemed that foreign female workers might be the victims of double discrimination, as women and foreigners, notwithstanding the legislation referred to in paragraphs 178, 182, 184 and 185 of the report. According to paragraph 188, the penalties applied for assaulting a foreign female worker were the same as for assaulting a national worker; she asked whether the delegation could furnish any statistics of complaints in that connection.

41. Mr. PILLAI welcomed the fact that Bahrain ranked first among the Arab States in terms of human development, as indicated in the Human Development Report 2003. He encouraged it to ratify the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, thereby ensuring fuller compliance with the provisions of the Convention.

42. With regard to employment, he sought clarification concerning reports of differences in wages paid to employees from EU member States and other States. He also asked for information on the application of the amended Legislative Decree No. 23 of 1976, and whether there had been any complaints by employees of violations of its provisions.

43. The delegation had referred to more than 390 NGOs, but he wondered how many of them operated in the areas of human rights and, more particularly, racial discrimination. Also how did they interact with the various branches of government?

44. Concerning education, he asked how “civics and human rights”, referred to in paragraph 227 of the report, were taken into account in textbooks and teaching methods. Lastly, he sought clarification concerning the compatibility of the Constitution and the State Security Act of 1974.

45. Mr. SHAHI said that Bahrain’s implementation of article 4 of the Convention fell short of the Committee’s expectations. Racial discrimination and incitement to racial hatred must be prohibited by law. He recalled the comment of a former Committee member to the effect that the Prophet Mohammed was the most radical of anti-racist philosophers; it was therefore surprising that the inheritors of his tradition - the Muslim countries - did not fully embrace that philosophy in that they adopted only half-hearted measures relating to article 4.

46. Bahrain was a leading example of an Arab country progressing on the road to democracy as a constitutional monarchy with an elected parliament. Women were participating in most aspects of public life but, disappointingly, were not sufficiently empowered in political terms. He suggested that Bahrain might follow the example of Pakistan, which had specific measures to ensure the participation of women in politics, including a constitutional quota for the number of seats to be held in Parliament by women.

47. Mr. Boyd had referred to discrimination on religious grounds. There were historical reasons for the sectarian rift in Islam, but the time had come for it to be healed so as to establish compliance with the values embraced and obligations undertaken through human rights treaties. Historical grievances and prejudices should not be allowed to perpetuate unequal treatment within different sects of the greater Muslim community.

48. He welcomed the news that around 6,000 formerly stateless Bidoons had been granted Bahraini citizenship, and encouraged the Government to do likewise for other stateless subjects.

49. Aside from information on legislation, the Committee needed detailed statistics on specific cases of discrimination dealt with and their outcomes in order to assess properly Bahrain’s observance of the provisions of the Convention. Similarly, more information on the different ethnic groups in Bahrain would be welcome.

50. Under the Convention, States parties must treat all non-nationals on an equal footing. However, by virtue of bilateral agreements some States parties accorded preferential treatment to non-nationals from certain States or groups of States. What was the situation in Bahrain? Were the nationals of other Arab States accorded preferential treatment?

51. Mr. ABOUL-NASR said that an element of Islamophobia seemed to have permeated the discussion, given the number of questions that referred to both racial and religious issues. He had been particularly surprised by Mr. de Gouttes' question concerning the Shariah and whether it discriminated against women. Apart from the fact that Mr. de Gouttes, as an eminent legal expert, should know the answer to that question, such matters did not fall within the mandate of the Committee.

52. Once and for all, the Shariah did not discriminate against women. The Shariah established the respective rights and obligations of men and women: their roles were complementary. Women had the right to inherit. Some might claim that they received only half an inheritance, but that was because men, unlike women, had obligations with respect to their mothers, wives and sisters. Women's political, economic and social rights were guaranteed under the Shariah: women had been granted the right to vote in Egypt before women in Switzerland; the regime of the separation of property continued after marriage. Such matters had been discussed by the Committee before. It was important to bear in mind that the Convention dealt with racial and not religious discrimination, and the two issues should not be confused.

53. The CHAIRMAN said it was true that such matters had been discussed before and they would be discussed again. The question of the link between religious and racial discrimination and whether it came within the scope of the Convention was the subject of ongoing general debate. However, the current dialogue with Bahrain was neither the right time nor the right place to pursue it. He was certain that the State party would address the relevant aspects of the issue in its replies.

54. Mr. de GOUTTES said he did not wish to enter into polemics, but regretted that a personal element had been introduced into the discussion. The point of his question, which clearly required some clarification, was to determine the link between religion and discriminatory attitudes on racial and ethnic grounds. It was a common problem which concerned Christians, Jews and Muslims alike and followers of other religions too, and it warranted further reflection. He was most grateful to Mr. Aboul-Nasr for his response, but was confident that the Bahraini delegation would also provide an explanation along the more general lines he had described.

55. Mr. AL ALAWI (Bahrain) said that his delegation would endeavour to reply to all the questions raised so as to benefit from the advice of Committee members in their capacity as independent experts monitoring observance of the Convention.

The meeting rose at 5.55 p.m.