United Nations CERD/C/SR.1795

International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
21 March 2007
English
Original: French

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Seventieth session

SUMMARY RECORD OF THE 1795th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 23 February 2007, at 10 a.m.

Chairperson: Mr. YUTZIS (Vice-Chairperson)

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In the absence of Mr. de Gouttes, Mr. Yutzis, Vice-Chairperson, took the Chair.

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 (agenda item 5) (*continued*)

Thirteenth periodic report of Israel [CERD/C/471/Add.2; list of issues (document without symbol distributed in the Committee room, in English only)] (*continued*)

1. *At the invitation of the Chairperson, the members of the delegation of Israel took places at the Committee table.*

2. Mr. LEVANON (Israel) said that it was not for reasons of strategy that Israel had not provided written replies to the list of issues, but because it wished to submit the most recent possible statistics and information. He therefore considered it preferable to respond orally. He recalled that freedom of movement was not an absolute right and that restrictions were sometimes dictated by security considerations. He was calling the Committee's attention to that point because, in Israel's dealings with United Nations mechanisms, its policies were very often criticized with no recognition of the unique challenges facing it. His delegation nevertheless took the Country Rapporteur's recommendations seriously and understood that when Israel found it necessary to impose restrictions on freedom of movement, it must to do so with the utmost care.

3. Contrary to what might be thought, Israel did not enjoy impeding the exercise of human rights. The security fence and the checkpoints were admittedly an inconvenience to local residents in their everyday lives, but Israel could not disregard the constant threat of suicide bombers who targeted civilians. Moreover, the statistics clearly showed that such measures were effective in drastically reducing the number of attacks in Israel. He was well aware of the controversy surrounding the anti-terrorist measures taken by Israel. He nevertheless asked the Committee to consider them in their context and to understand them as a response to the daily challenge faced by Israel of reconciling respect for human rights with security concerns. He also stressed that the Supreme Court played a crucial oversight role in reviewing administrative measures taken by the Government.

4. In response to the call for peace made at the previous meeting, he said that there was no country in the world that wanted peace as much as Israel. While Israel's Declaration of Independence stated that the name of the new country would be "Medinat Israel", it also stipulated that equality among all components of society within that State must be respected. Israel had achieved peace, unfortunately only in part, with three Arab countries - Egypt, Jordan and the Islamic Republic of Mauritania - and hoped to come to a satisfactory agreement with its Palestinian neighbours so as to bring the conflict to an end. That would not be possible until such time as the Palestinian people realized that terrorism and violence led nowhere and that peace was the only solution for the children of Abraham to be able to live together.

5. Mr. LEVERTOV (Israel) said that, in accordance with the amendment to the Civil Service Law (Appointments), Israel had taken steps to speed up the recruitment to the civil service of members of minority groups. Adopted in 2000, that amendment provided for suitable representation by men and women, disabled

persons and members of the Arab population, including Druze and Circassians. Moreover, the Government had set the proportion of Arabs in the civil service at eight per cent by the end of 2008 and 10 per cent by the end of 2010. With regard to promotion and recruitment, pursuant to the decision of 19 August 2003, ministries were required to give precedence, qualifications being equal, to Arab applicants or employees for a period of four years from the date of the decision. Officials who failed to give effect to that decision must provide justification and give evidence of their intention to apply the prescribed affirmative action measures.

6. A joint team composed of members of the Ministry of Justice and the Ministry of Finance had recommended in 2006 that additional measures should be taken in support of that population, in particular by appointing Arabs to the membership of commissions responsible for reviewing civil service job applications, issuing tenders in Arabic on the civil service website and in the Arabic-speaking press, appointing within each ministry a coordinator to monitor related developments and conducting a campaign to inform the public of the Government's intention to recruit more Arabs to the civil service. In towns and villages where the bulk of the population were Arab, Druze, Bedouin or Circassian, local civil servants were almost exclusively members of those minorities. However, in bigger municipalities where the population was mixed, like Jerusalem, Haifa or Lod, their representation was proportional to their demographic weight.

7. The legislator had taken into account the different ways of life of civil servants belonging to minority groups. They were accordingly granted leave for religious holidays, thus allowing Muslim civil servants to have one day off from work during Ramadan and Christians not to work on Sunday. Furthermore, the number of days of bereavement leave also varied according to the employee's religion and ethnic group, which was why, for instance, a Druze civil servant was granted more days of leave in that connection than a Jewish colleague.

8. In 2000 the Israeli Government had approved the principle of fair representation of minorities on the board of directors of government corporations, by adopting in June of that year an amendment to the Government Corporations Law. The provisions of that new law were described in detail in paragraphs 55 to 59 of the report under consideration, which he read out. All the measures taken in pursuance of that law had borne fruit since, between January 2000 and January 2007, the number of Arab representatives on the board of directors of government corporations had considerably increased, rising from 10 to 48 (9.18 per cent as against 1.7 per cent in 2000).

9. Lastly, the representation of the Arab and Druze population within the judicial system had also shot up in the past 10 years. Out of 550 judges, there were currently 34 who belonged to minorities, half of whom had been appointed in that period. In recent years, 15 per cent of those appointed in the judicial system belonged to a minority; there were currently 12 Muslim judges, 15 Christian judges and seven Druze judges.

10. Mr. OREN (Israel) said that 100,000 Bedouins, or 62 per cent of the total Bedouin population, were currently living in planned urban towns, possessing the same infrastructure and the same services (drinking water supply, electricity, sanitation, health care, schools) as the other towns in the country. The remaining 60,000 Bedouins (38 per cent) lived in hundreds of small illegal villages which, scattered as they were, were less well served. To address that problem, the State had

adopted a policy encouraging Bedouins to leave those illegal clusters and to join towns already existing or under construction. That policy and the various measures taken for the Bedouin population were set out in paragraphs 379 to 389 of the report.

11. It was very difficult to supply unrecognized villages with water because they were scattered. Efforts were being made, however, to connect the Bedouin communities to the water distribution system and thereby improve their living conditions. Five water supply centres had thus been built in the most populated areas of the Negev. Between 2000 and 2006, for example, the Water Connections Allocation Committee had examined 306 applications for connections. In cases where they had been turned down, it was because of the technical impossibility of bringing water to them on account of topographic conditions in the areas concerned. To provide themselves with a sewage system, whose establishment depended on the local authorities, the Bedouin localities received loans under more favourable conditions than were granted to Jewish localities.

12. Mr. ZAILER (Israel) said that the 1995 National Health Insurance Law guaranteed equal access to health care for all Israelis, without discrimination or distinction. There were disparities in the enjoyment of that right, but they were in no way based on race. Efforts to improve access to health services for Bedouins had, in 2005, led to the establishment of 31 local dispensaries providing mother and child health care in Bedouin towns. The illegal villages possessed six new dispensaries supplied with electricity by generators and a mobile family medicine unit. The infantile mortality rate among Bedouins had been 15 per cent in 2005, lower than the previous year.

13. Ms. SCHONMAN (Israel) said that her country had not made the declaration required to extend the applicability of the Convention to the West Bank and the Gaza Strip and that consequently that instrument could not be applied to those territories. It followed that the situation in those territories did not come within the jurisdiction of the Committee. Since 1990, Israel had transferred significant powers to the Palestinian Authority, which had since then exercised full of jurisdiction in matters of health, education and law enforcement, for example. Disengagement from the Gaza Strip since August 2005, which had been marked by the withdrawal of all the Israeli armed forces, meant that, concretely, Israel no longer exercised territorial jurisdiction in that area. The applicable law in those territories was international humanitarian law in accordance with the principle of *lex specialis*.

14. On the question of the security fence, the International Court of Justice had not implied, in the advisory opinion issued in July 2004 on the legal consequences of the construction of a wall in the Occupied Palestinian Territory (request for advisory opinion), that the construction of that system of defence was a form of discrimination against Palestinians. In any case, the advisory opinion of the International Court of Justice was not binding for Israel as, besides the fact that that opinion was indeed only advisory, Israel had not explicitly recognized that body's jurisdiction. However, the Supreme Court of Israel had handed down several decisions on the lawfulness of the construction of the separation fence. In a first judgment, dated 13 June 2004, the Supreme Court had established the principle that the construction of the fence in the occupied Palestinian territories was in itself legal. The Court had found that, as an occupying power, Israel was authorized by international humanitarian law to construct such a fence if it was solely for reasons

of security. In a second judgment, dated 15 September 2005, the Supreme Court had further developed its reasoning regarding the legality of the construction of the fence in response to the opinion of the International Court of Justice and had recognized that some parts of the fence were not legal. The Court had established, in addition, that the route of the fence must, under international law and Israeli law, be in keeping with the principle of proportionality, requiring an adequate balance between security demands and the humanitarian impact on the populations concerned. The Government had taken that decision into account and had in fact changed the route of some sections of the fence.

15. Ms. GENESSIN (Israel) said that there were sometimes restrictions on freedom of movement in Israel; however, they were not based on racial or ethnic considerations but on security requirements. Under the Convention, distinctions that might be made by States parties between citizens and non-citizens in the exercise of the rights enshrined in the Convention did not constitute discrimination. Israel had built a security fence in order to protect Israeli citizens against terrorist attacks launched from the Palestinian territories, but that decision, which had indeed restricted the freedom of movement of Israeli non-citizens, was dictated by security concerns which were in no way a violation of the provisions of the Convention.

16. Most of the terrorist attacks directed against Israel since September 2000 had targeted civilians and had left 1,000 dead and 8,000 wounded. The Government's decision to build a security fence had prevented further attacks and considerably reduced the number of those killed and wounded. The legality of that decision had since been confirmed by the Supreme Court. The challenge for Israel was to find a balance between the State's obligation to protect the lives of its citizens and the need to limit the negative effects of the construction of the fence on Palestinian residents. The Government had taken into account the decision of 15 September 2005 of the Supreme Court whereby the Court had recognized that that system of defence had harmed the economic interests of the Palestinians and impeded freedom of movement for many civilians. Following that judgment, Israel had changed the route of the fence to take into account the needs of the populations concerned. Israel had made every effort to build the fence on non-arable land and compensation had been offered to all the owners of seized lands. Several roads had recently been built to facilitate traffic in the area and a shuttle service was planned to enable students to pass more easily from one side of the fence to the other.

17. The allegations that acts of violence against Palestinians and the destruction of property were common in the occupied Palestinian territories were unfounded. Although the Army found it difficult to maintain law and order and security, it sought so far as possible to avoid violence and to respect the property rights of Palestinians. In 2006, guidelines had been issued to soldiers concerning the most appropriate way of easing tension between Palestinians and Israelis, particularly in the occupied Palestinian territories.

18. There was no obstacle to access to justice. For example, the cost of a procedure before the Supreme Court was approximately 300 euros, but legal expenses could be refunded if the plaintiff could show that he was unable to play. As for the principle of equality, the High Court of Justice considered there to be no need to rule on the matter, given that that principle was covered by the 1992 Basic Law: Human Dignity and Liberty.

19. Mr. SOLOMON (Israel) said that, under the Law of Return, adopted in 1950 by the Knesset, Jews who immigrated to Israel were automatically granted Israeli citizenship. In that respect, Israel was like all other States which, on achieving statehood in accordance with the principle of self-determination, accorded preference to persons having social, cultural or ethnic links with that State. However, nothing prevented non-Jews from immigrating to Israel and there were no restrictions on any particular group. Non-Jews who wished to acquire Israeli citizenship could apply for it in accordance with the 1952 Citizenship Law. Under that law, it was possible to acquire Israeli citizenship under certain conditions by birth, residence, combination of birth and residence, return (under the Law of Return), naturalization and by grant, with no regard to religion or ethnic origin.

20. Since the outbreak of armed conflict between Israel and the Palestinians in late 2000, which had led to dozens of suicide attacks, there had been a growing involvement in terrorist organizations by Palestinians originating from the West Bank and the Gaza Strip who carried Israeli identity cards by virtue of family reunification. For that reason, to avert any threat, the Government had decided in May 2002 to stop temporarily granting legal status in Israel to former residents of the West Bank and the Gaza Strip, including through family reunification. That decision did not apply to persons who had already been granted legal status in Israel and did not discriminate between Israeli citizens and residents since it applied to all. Moreover, a State had the right to control entry into its territory, particularly in times of armed conflict, when persons requesting to enter might commit terrorist acts.

21. In 2003, the Knesset had enacted the Citizen and Entry into Israel Law (Temporary Provision), which limited the possibility of granting residents of Palestinian territories not only Israeli citizenship, including through family reunification, but also residence permits in Israel. That law, dictated by security requirements, was the result of a wave of atrocious attacks that had claimed the lives of several hundred innocent Israelis. The Supreme Court had been required on several occasions to rule on the constitutionality of the law and had found each time that the law was duly justified by the insecurity prevailing in the country and was fully proportional to the goal sought by Israel.

22. Israel was a party to the 1951 United Nations Convention relating to the Status of Refugees. Any person who met the definitions contained in that Convention could apply for refugee status in Israel, regardless of religion. There were currently several hundred African refugees in Israel.

23. The Israeli Ministry of the Interior was working to improve infrastructure and accelerate development in Arab villages and towns. It had accordingly allocated funds for the preparation of local outline plans for Arab villages. Under those plans, sufficient areas of land would be assigned to cope with population growth in the Arab sector up to 2020. It was to be noted that population density in the Jewish sector was far higher than in the Arab sector and that the number of houses under demolition orders was the same in the Arab sector as in the Jewish sector. In addition, land was not distributed according to religious or ethnic criteria. The Ministry of the Interior made sure that all communities were represented in district planning and building committees.

24. There were in Israel between 70,000 and 80,000 illegal migrant workers, who were liable to a prison sentence of up to one year if they were arrested while in

possession of false Israeli identity papers. Such persons were not treated like criminals, however, and were subject to an administrative procedure which required them to be escorted back to the border. While Israel had no statistics on trafficking in persons, the subject was being given its full attention and the Knesset had adopted a law on trafficking in persons in October 2006.

25. Mr. BRUCK (Israel) said that the law on racism provided for prison sentences of up to five years for any person publishing works inciting to racism or holding such a publication with the intent to publish it. A large number of cases concerning incitement to racial hatred had been the subject of investigations and court proceedings. As, however, Israel was a democratic State, freedom of expression had to be respected there, which was why each case was considered with the utmost attention and with a concern to reconcile respect for freedom of expression with action to combat racism and racial discrimination. As for allegations that Palestinian drivers were harassed by the Israeli police, he quoted statistics which showed that, in the West Bank, between January and May 2006, Israeli drivers had received 50 per cent more fines than Palestinian drivers for traffic offenses.

26. Mr. BAR (Israel) outlined the many affirmative action measures taken in the Arab sector in several fields: road system construction and/or repair in Arab localities, sanitation system construction and/or extension in Arab villages, basic infrastructure repair in the north of the country following the conflict with Lebanon, programme in support of the Bedouin population in the northern part of the country and development of industrial areas in the Arab sector. The amount of resources allocated under programmes for the Arab sector was determined by transparent economic and social criteria.

27. Ms. TENE (Israel) referred to the efforts made by the Ministry of Industry, Trade and Labour to promote economic development in the Arab and Circassian sectors. For example, the Arab sector had accounted for 21.9 per cent of the Ministry's total budget appropriation in 2000-2005 for the country's industrial zones. In addition, in order to remedy the problem of unemployment within the Arab population, in particular among women, the Ministry was giving special attention to occupational and basic skills training. It had also carried out a programme on equality of opportunity in employment.

28. Mr. ZAILER (Israel) said that the education system of Israel was designed to develop from the earliest age children's awareness of such values as respect for difference, tolerance and peace, and to familiarize them with human rights, in particular children's rights, and the cultural heritage of the Bedouin, Druze and Arab populations. The delegation had brought to the Committee a quantity of teaching materials in Arabic on human rights and peace, including textbooks, posters and leaflets, which attested to the place given to the Arabic language in education.

29. Under the 1949 Free Compulsory Education Law, education was compulsory for children aged from 3 to 15 and free for children aged from 3 to 17; discrimination based on ethnic origin was prohibited in the education system. Under the 1953 Education Law, the goals of education included the transmission of the universal values of humanity and the cultural heritage of communities living in Israel and the building of a society founded on freedom, equality and tolerance. In 2000, that law had been supplemented by a provision which assigned to education the goal of guaranteeing equal opportunity and rights for all Israeli citizens and

recognizing the language, culture, history and traditions of communities living in Israel, in particular the Arab community.

30. In the Jewish sector, pupils' parents could choose between non-religious and religious public schools. They also had a say in the subjects taught to their children for, under law, 25 per cent of the curriculum could be devoted to subjects determined by parents when 75 per cent of them had submitted a request to that effect to the Ministry of Education. That part of the curriculum was usually set aside for the teaching of language and cultural heritage of the community to which the children belonged. Diversity was regarded as an asset in Israel; the State accordingly offered to those who so desired opportunities for preserving and transmitting their linguistic and cultural heritage. Lastly, to guarantee equal opportunity in those municipalities and districts that required additional educational assistance, Israel had in 1997 adopted the Extended School Day and Supplementary Education Law, which was currently applied in 106 municipalities, of which 58 with Jewish and 41 Arab. Of the pupils meeting the conditions laid down in the law for entitlement to an extended school day, 41 per cent were from the Arab sector.

31. Mr. AMIR wished to know how the State party interpreted the term of occupying power and whether it considered national security to be the exclusive responsibility of the police and the army.

32. Mr. CALI TZAY requested explanations concerning the fact that, since 2000, 1,200 requests for family reunification submitted by Palestinians wishing to join their families in the West Bank had been pending while, according to reports, Jews with families in that area received State assistance to settle there. Was that difference in treatment compatible with the Convention?

33. Mr. PILLAI, noting that, according to the information provided by the delegation, the number of migrant workers was extremely high in the State party, asked whether Israel was planning to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. He also wondered whether the significant flows of immigrants who had settled in Israel under the 1950 Law on Return had had repercussions on the ethnic composition of the population.

34. Mr. EWOMSAN said that he would appreciate it if the delegation could reply to his question on the situation of Jews from Ethiopia.

35. Mr. THORNBERRY requested fuller information about how Bedouins responded to modern life. Did they manage to enjoy the benefits of the modern world and to reconcile modernity and tradition? With regard to indigenous land rights, he noted that, in many countries, indigenous customary law code coexisted with statutory law and that, in international law, the tendency was increasingly to set the two types of law on an equal footing.

36. Mr. de GOUTTES wished to know the outcome of cases that, at the time of preparing the report, had still been pending before the Supreme Court. Referring to the decision handed down by that Court in *Ka'adan* v. *The Israel Lands Administration*, he raised the question whether, instead of considering such cases case by case as was its current practice, the Supreme Court might rely on that precedent when the facts of the case were very similar.

37. Mr. SALOMON (Israel) said that the emigration quota for Ethiopian Jews was currently 300 persons a month and that 7,000 Ethiopian Jews were still waiting for permission to emigrate to Israel. The process was so slow because of the specific needs of that group of applicants for emigration.

38. Following the enactment in 2005 of the provision temporarily suspending the 2003 Citizenship and Entry into Israel Law, 30 per cent of applications for naturalization that had been rejected before 2005 were currently being reviewed by the Ministry of the Interior. A further amendment to that law was to be adopted, which would provide for the possibility of delivering a residence permit for humanitarian reasons.

39. Mr. KJAERUM, Country Rapporteur, welcomed the frankness of the dialogue with the delegation of Israel and its spirit of cooperation. He commended the State party for its affirmative action measures, which demonstrated a real determination to combat racial discrimination. Further measures were still required, however, in certain fields. National legislation should be amended to include a provision explicitly prohibiting racial discrimination and the State party should ensure that the steps taken to guarantee security were proportional to the risks and did not have the effect of introducing discrimination, whether direct or indirect, against certain population groups.

40. The CHAIRPERSON thanked the delegation of Israel and expressed the hope that the dialogue with the Committee would have helped to build the edifice of peace.

The meeting rose at 1.05 p.m.