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the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-third session

SUMMARY RECORD OF THE 1599th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 14 August 2003, at 10 a.m.

Chairman: Mr. DIACONU

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The meeting was called to order at 10.05 a.m.

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

Fourth and fifth periodic reports of Latvia (continued) (CERD/C/398/Add.2; CERD/C/398/Add.2 (Suppl.))

1. At the invitation of the Chairman, the members of the delegation of Latvia resumed their places at the Committee table.

2. Mr. KĀRKLINŠ (Latvia) said that Latvia had been a multi-ethnic country for centuries. Until the unlawful occupation of the country in the Soviet era, one sixth of the population had been made up of national minorities. Following independence, when the 1922 Constitution had been readopted, 40 per cent of the ethnic Russians living in Latvia had automatically acquired Latvian citizenship. A special law had been passed to grant non-citizens all the rights and obligations enshrined in the Latvian Constitution. They were given residence permits without the need to apply, and were afforded the full protection of the Latvian State when travelling abroad. In no way could they be classified as stateless persons.

3. Almost half the ethnic Russians living in Latvia, who made up 29 per cent of the total population, were citizens of Latvia. Of the ethnic Latvians living in Latvia 2,660 were non-citizens. Those figures showed that ethnicity had never been a criterion for granting citizenship to inhabitants of Latvia. Similarly, accusations that the Latvian authorities discriminated against ethnic Russians were unfounded. He conceded that the figure for non-citizens, over 20 per cent of the total population, was high. Nevertheless, the Government had made every effort in the 12 years since independence to naturalize as many inhabitants of Latvia as possible.

4. Ms. VĪBA (Latvia) said that the Latvian Government had adopted a number of proactive legislative measures to sustain the naturalization process and encourage non-citizens to apply for citizenship. In doing so, it had taken into account the recommendations of various international organizations, including the United Nations, the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE). Those organizations had acknowledged that Latvian legislation complied with international standards of democracy and human rights.

5. All persons who had been citizens of Latvia before 1940, along with their descendants, had been automatically granted citizenship following independence. Since the amended Citizenship Law had come into effect, all non-citizens with permanent residence status had been entitled to apply for citizenship. Citizenship was granted to anyone with sufficient knowledge of Latvian language and history. On the other hand, anyone who had been convicted of a criminal offence, cooperated with the security services of another State, including the Soviet Union, served as a foreign agent or a member of the armed forces of another State, expressed ideas of fascism, chauvinism or totalitarianism, or directed activities against the independence of the Republic of Latvia was barred from naturalization.

6. Whereas the Citizenship Law foresaw the granting of citizenship within one year, in practice the procedure took only three to six months. Between 1995 and July 2003, over 64,000 naturalization applications had been received, and more than 64,000 persons had been granted citizenship; only 106 such applications had been rejected.

7. The two naturalization examinations - proficiency in the Latvian language and knowledge of the Constitution, national anthem and history - had been repeatedly simplified. Council of Europe standards had been applied to the language skills test, in which all the exercises were relevant to day-to-day life. According to official statistics, 86 per cent of applicants had passed the language examination and 97 per cent the history examination. Since June 2001, those who had attended a minority school and passed the secondary-level Latvian language examination were not required to sit the language test for naturalization.

8. The Government had made every effort to ensure that the naturalization process was efficient and user-friendly. In spring 2003, the Naturalization Board had carried out an extensive nationwide analysis of the reasons why some non-citizens failed to naturalize. Its findings would be published shortly. Psychological factors, cultural differences and regional influences had been taken into account. The Board had already proposed that certain categories of the population should be exempted from naturalization examinations, on the grounds of age or health. Amendments to the legislation were planned in order to protect the rights of children.

9. The Naturalization Board had also interviewed officials throughout the country in order to determine the factors which encouraged or obstructed naturalization. In general, the main incentives to naturalization seemed to be related to travel, property ownership and employment, along with social, citizenship and electoral rights. The positive attitude of the Naturalization Board, the increased availability of information and the example of those who had already taken out citizenship had tended to encourage naturalization. Minor factors included increased intercommunity trust, more moderate expressions of Latvian nationalism, Latvia's economic growth, the citizenship laws of the Russian Federation and military service requirements.

10. Negative factors with regard to naturalization included apathy, alienation and resentment. Some people found the naturalization fee prohibitive. Many others had grown accustomed to their non-citizen status and saw no need for Latvian citizenship in everyday life. Myths circulated about the difficulties of the naturalization process. People were generally unclear about what their status would be when Latvia joined the European Union (EU); many were under the false impression that non-citizens in Latvia would automatically become "EU citizens" or Latvian citizens as a consequence of EU membership. The relative importance of the different factors varied considerably between and within the different regions of the country. Another major disparity was age-related; in general, young people had no language problems, in contrast to the elderly, especially in areas where little or no Latvian was spoken.

11. Mr. MUIŽNIEKS (Latvia) assured the Committee that Latvia was doing all it could to encourage non-citizens to acquire Latvian citizenship, in order to strengthen Latvia's democracy and international competitiveness. Although the Government preferred non-citizens to opt for naturalization, there was no discrimination between citizens and non-citizens. Existing restrictions on the rights of non-citizens were, however, totally justified. All administrative posts in the national public service were restricted to Latvian citizens, although that restriction did not

apply to posts in municipal services. In order to give firefighters improved social rights, including pensions, it had been decided to incorporate the fire service into the civil service. The fire service management were making every effort to encourage non-citizens working as firefighters to apply for naturalization, and were helping them to acquire the necessary national language skills. So far there had been no cases of dismissal from the fire service on the grounds of citizenship.

12. The Latvian Government did not intend to grant non-citizens the right to vote. That was partly in order to encourage non-citizens to apply for naturalization. Those municipalities which allowed non-citizens to vote in their elections suffered the lowest naturalization rates in the country. He agreed, however, that it raised a dilemma for the Government.

13. Non-citizens were free to join political parties but at least 50 per cent of a party's members had to be Latvian citizens in order to qualify for parliamentary representation. There were restrictions on the membership of certain professions; jobs related to public security or the judiciary were open only to Latvian citizens. An extensive survey carried out in 2000 had demonstrated that non-citizens had the same job opportunities as citizens. The unemployment rate in Latvia was 11 per cent for citizens and 13 per cent for non-citizens, a negligible difference.

14. The Latvian language had been imperilled towards the end of the Soviet era and its current status could best be described as very weak. During the unlawful Soviet occupation of Latvia, there had been a phenomenon of asymmetric bilingualism: nearly all Latvian speakers had also spoken Russian whereas very few Russian speakers had learned to speak Latvian. Although the situation had improved, the 2000 census had shown that 81 per cent of the population cited Russian as their first or second language and only 79 per cent had made the same claim for Latvian. He suggested that Latvia's linguistic situation was unique. Latvia's demographic features were a factor: ethnic Latvians were a minority in every major city including the capital. In the Soviet era, Latvian speakers had always tended to speak Russian to Russian speakers so as not to appear to be politically subversive. They still tended to do so and it would take time for the habit to die out.

15. In theory, Latvian legislation was in line with the Council of Europe's Framework Convention for the Protection of National Minorities. The only apparent discrepancy had recently been removed when linguistic provisions in the Radio and Television Law had been declared unconstitutional by Latvia's Constitutional Court.

16. It was not true that official translations had to be certified by a notary public; it was sufficient for the translator to sign documents, declaring that the translation was authentic. Linguistic practice at municipal level was extremely flexible. Employees of municipal government offices often translated documents when necessary, while some municipalities even had translators on their staff. Documents drafted in Russian were often accepted by the authorities, albeit with a summary in Latvian attached. Most government ministries circulated all public information in Russian as well as Latvian. In court proceedings, translators and interpreters assisted not only Russian speakers but also the speakers of Latvia's other minority languages.

17. Mr. PĒKALIS (Latvia) said that the National Language Law (1999) was intended to protect and promote Latvian as the State language, as it had been weakened by the Soviet policy of Russification. It was also intended to set strict limits on State interference in the private sphere, including the cultural life of ethnic minorities. The law had been drafted in close cooperation with OSCE experts. The legislation and regulations concerning its implementation had been welcomed by the OSCE and the Council of Europe.

18. The use of language in the private sector was regulated only when legitimate public interests were at stake. Translation into Latvian had to be provided at conferences and demonstrations; private organizations were required to provide information on publicly displayed signs in Latvian as well as other languages, and anyone seeking a post in the public sector had to meet Latvian language requirements. The regulations listed a small number of private-sector professions requiring knowledge of the Latvian language: they were mostly in the public health, public safety and public order sectors.

19. Rather than impose fines, the Latvian Government devoted considerable resources to positive measures for promoting the Latvian language, such as free language training. Nevertheless, the Administrative Violations Code stipulated a number of cases punishable by fine. In 2002 most of the fines imposed were for failure to use the State language at a level necessary for the performance of professional duties or for failure to provide a Latvian translation of instructions or manuals. Although the State Language Centre could act on its own initiative, its inspectors mostly reacted to complaints. The increase in the number of fines imposed in 2002, compared with 2001, was due to the fact that the relevant provisions of the Administrative Violations Code had entered into force only at the end of June 2001. Nobody had yet been punished for openly demonstrating disrespect to the State language, as envisaged under the Code. The work of the State Language Centre was supervised by the Minister of Justice and all its decisions could be appealed against in court. It was doubtful that there could be any direct link between the activities of that Centre and the unemployment rate among non-Latvians, as had been suggested. In any case, the latter rate had fallen in 2002.

20. Ms. PRIEDITE (Latvia), replying to questions on Latvia's educational reform and the participation of minorities in the process, said that, at independence, Latvia had inherited two school systems, one Latvian and the other Russian. The Russian system, with non-Latvian-speaking teachers and a Soviet curriculum, had also catered for many of the other minorities in the country. In the new, Western-oriented Latvia, the education system was considered to be one of the most important vectors of democracy and of the Latvian language, and reform of the system was therefore a high priority. The aim was to create a unified education system with the ability to provide a knowledge of Latvian as well as the minority languages and cultures, thereby guaranteeing equal rights and opportunities in the labour market and promoting social harmony and democratic development.

21. In 1995, a United Nations Development Programme (UNDP) mission to Latvia, comprising language and language-policy experts from Latvia itself and around the world, and including representatives of Latvia's minorities, had recommended that, in accordance with generally accepted practice in the field of second-language acquisition, subjects other than Latvian needed to be taught in Latvian in minority schools and should gradually be introduced into their curricula.

22. The reform allowed for appropriate transition periods. Starting in 1995, schools had been required to teach two subjects of their choice in Latvian in grades 1 to 9 and three in grades 10 to 12. At the same time, a national programme had been developed to provide language training to non-Latvian-speaking teachers, enhance the teaching skills of minority school teachers and develop new teaching materials. From the start, minority representatives had been included in all programme planning and implementation.

23. Under the new education legislation introduced in 1998 and 1999, minority schools had been offered various models of bilingual education, to be introduced in grades 1 to 9 by September 2003 and in grades 10 to 12 between September 2004 and May 2007, by which time the reform would have spread throughout the entire school system. Five subjects, at schools' discretion, had to be taught in Latvian; up to 40 per cent of the grade curriculum could be taught in minority languages. The reform was in line with European Union requirements on minority education and the European Convention for the Protection of National Minorities.

24. She said the effect of the requirement for five examinations to be set only in Latvian after 2007 would be to ensure that all students could attend State universities and would eliminate the problems of financing and timetabling additional Latvian language classes. It would also help develop language standards in the professions and in vocational training programmes, and would ensure that people were adequately prepared for the proficiency tests and naturalization.

25. As to opinions regarding the reform process, she said all surveys showed that, on average, more than 60 per cent of minority school teachers, parents and students had a positive attitude to education reform; that was particularly the case where parents were involved in curriculum planning. Parents and teachers were regularly brought together in seminars as part of the national programme for Latvian language training, and booklets on bilingual education had been produced.

26. With regard to "Latvianization" and "assimilation", she said one of the aims of a unified education system was to promote social integration, which included the promotion of minority languages and culture alongside the majority language and culture: the two were seen as complementary, not contradictory.

27. With regard to funding and the availability of minority education, she said the Government paid minority school teachers a bonus and provided teaching material and support programmes. There was no set number of minority education programmes: they varied depending on the demographic situation and were made available nationwide to all who wished to participate. Lastly, she said private schools were a very recent development in Latvia; the Government was currently reviewing funding procedures, which were not yet properly established.

28. Mr. LOGINS (Latvia), replying to the points made concerning discrimination in areas of employment and social protection, said the Constitution enshrined the prohibition of discrimination insofar as it stipulated that every person was free to choose a profession and workplace in accordance with his or her ability and qualifications. It also established the right of all to social security. All those rights were covered by the general provision stating that human rights in Latvia were enjoyed by everyone without discrimination. Those provisions, taken

together with the Law of 12 April 1995 on the status of citizens of the former USSR who were not citizens of Latvia or of any other country, meant that non-citizens enjoyed the same rights as citizens in respect of employment and social security.

29. The recently-enacted Labour Law explicitly established the principle of equal rights in the areas of employment, working conditions and remuneration and provided for compensation where violations occurred. It prohibited victimization and gave definitions of direct and indirect discrimination. It also shifted the burden of proof to the respondent in cases of discrimination. Moreover, amendments were currently being prepared to bring the Labour Law into line with the requirements of the European Union directives on race, employment and equal treatment. The concept of discrimination was to be broadened to cover harassment and the definition of indirect discrimination would be amended to eliminate the requirement for statistical or other evidence of the impact of such discrimination on a specific group. No statistics were available on the numbers of discrimination cases brought before the courts or on compensation paid to victims, possibly owing to the fact that the Labour Law had only recently come into effect and no case law had yet emerged. Statistics would be provided in Latvia's next report.

30. Awareness-raising activities were being conducted with law-enforcement officers, public officials and employees, and employers and other social actors. An employers' manual had been prepared providing a comprehensive analysis of anti-discrimination legislation and a code of conduct. Although anti-discrimination legislation in the area of social security was far less comprehensive, the fundamental principles of the social security system, as set forth in article 2 of the Social Security Act, guaranteed social security services regardless of race, ethnicity, religion or sex. Any discrimination in that regard was considered a violation of the Constitution. In addition, the structure of the social insurance and social benefit components of the system tended to preclude the possibility of discrimination. The regulations applied equally to citizens, non-citizens and foreigners, provided they had made their contributions to the social insurance scheme in accordance with the law.

31. With regard to unemployment among the various ethnic groups, including Roma, he said that, as at 31 December 2001, 51.1 per cent of the total unemployed had been Latvians, while 35 per cent had been Russians, figures that could not be considered disproportionate. No separate statistics were available for unemployment among the Roma, but they were included in the 1.6 per cent of unemployed (1,506 individuals) whose ethnic origin was not indicated, so that the figure of 2 per cent mentioned by Mr. Kjaerum was far from accurate.

32. According to a recent independent survey, ethnicity had less impact on poverty than regional factors; in addition, poverty rates in urban and rural areas differed widely. Ethnic composition also varied between urban and rural areas, with Latvians comprising the majority of the rural population and Russians living mainly in urban areas.

33. Measures taken by the employment service to boost employment among non-citizens and the non-Latvian-speaking population included language courses, which were taken by some 1,800 unemployed persons a year, retraining courses, which also included language classes, and programmes under the European Union's PHARE project on social integration. Lastly, he said the right of non-citizens and foreigners to join trade unions was guaranteed under the Constitution, the Trade Union Act and the Labour Law, regardless of ethnic origin or legal status.

34. Ms. MALINOVSKA (Latvia) said the debate on the definition of discrimination was still continuing and involved academics, NGOs and the Government itself. Legislative and administrative changes were to be expected in the light of the European Union directives in that area, and information would be provided in Latvia's next periodic report. In the meantime, the possible discrepancy between the definitions given in Latvian law and in the Convention was resolved to some extent by the fact that international law prevailed over Latvia's domestic law, and by a Constitutional Court ruling to the effect that the human rights provisions of the Constitution should be interpreted in line with international human rights law. The constitutional principles of equality and non-discrimination applied to matters of both criminal and civil law; moreover, the Judiciary Act stipulated that all persons were equal before the courts and had equal rights to the protection of the law, and that courts were to conduct trials without regard for a person's origin, social or financial status, race or nationality, gender or occupation, among other attributes.

35. She said that, according to information from the National Human Rights Office, no complaints of racial discrimination had been lodged in 2001; in 2002 the Office had twice provided oral consultations on alleged cases. The Office also actively exercised its right to bring complaints before the Constitutional Court, which in 2002 had found in the Office's favour three times. The small number of criminal cases brought was due in part to a lack of public awareness owing to the relatively recent introduction of anti-discrimination legislation, and in part to a preference for resolving issues through the National Human Rights Office, local government departments or NGOs rather than through litigation.

36. The cases of genocide mentioned in paragraph 27 of the report referred to crimes committed during World War II and the Soviet occupation. Latvia considered impartial consideration of such crimes, regardless of the sex, race, religion or party membership of the perpetrators, to be a part of its international obligations.

37. Latvia was still improving its legislation in the area of compensation for victims of human rights violations, including racial discrimination, and would provide more detail in subsequent reports. Discussion currently focused on draft legislation on compensation and procedures for calculating compensation, in respect of administrative acts or actions by State institutions, as well as regulations on compensation for victims of unlawful actions by police officers.

38. Under the new Immigration Act, the State Border Guard could detain asylum-seekers for up to 10 days pending expulsion. Extensions, up to a maximum of two months, could be granted only by a judge. There was no automatic extension of detention, and if a further extension was needed, the Border Guard must provide a detailed explanation of measures taken to expel the person during the period elapsed and why expulsion had not been possible. The total period of detention could not exceed 20 months.

39. With regard to access to housing for refugees, she said the right to housing was covered by article 27 of the new Asylum Act and the corresponding government regulations, according to which refugees' right to housing was guaranteed by State and local government institutions, NGOs and religious organizations. The Minister of the Interior was informed twice a year of the

availability of apartments. Where debts had been accumulated on an apartment, refugees were not required to pay those debts before signing a lease agreement. Owing to the small number of refugees and persons with alternative status in Latvia, all such issues could be resolved on a case-by-case basis.

40. Mr. MUIŽNIEKS (Latvia), responding to questions concerning extremist groups, said Latvia had no particular problem with racist extremism: no group could boast more than 100 members and there was no official or parliamentary group. In recent years there had been only three serious extremist groups. Two members of one group had died while trying to cause an explosion. In one of Latvia's first cases of incitement to racial hatred, other members of the group had been convicted of disseminating racist propaganda and sentenced to up to three years in prison. One neo-Nazi group with racist, anti-Semitic and anti-Roma opinions had been fined, while members of another neo-Nazi group with connections in Russia had been sentenced to between three and a half and seven years in prison for armed robbery and assault. As to the question of banning such groups, the first two had never been registered and so could not be proscribed, while the third had attempted to register but its application had been rejected.

41. With regard to the police, he said that, largely due to the Soviet-era policy of recruiting few Latvians, minorities currently were in fact well represented in the police force. The police did receive training in the anti-discrimination provisions of the Penal Code, although to date discrimination-related incidents had not been a major problem.

42. Turning to the question of the involvement of minorities in the development of integration policies, he said that the governing board of the Social Integration Foundation had 16 members, of whom 5 were minority representatives: 1 was a municipal official, 3 were from non-governmental organizations and 1 was a representative of the President. Minorities were also involved at the lower decision-making levels and he was proud that some 50 per cent of the staff of the Ministry of Social Integration came from minorities. Consultations were being organized with experts and minority groups to update the Social Integration Programme approved in 2001. An open competition system was run to award grants to support social integration projects; the criteria for such awards were very broad and grants had been provided to projects which promoted naturalization, minority identity and culture, cooperation between the majority and the minority and development of non-governmental organizations.

43. No anti-discrimination projects per se had been funded because no requests had been received, although many projects which in fact empowered minorities had been subsidized. They included projects to encourage naturalization of non-citizens, leadership training for minorities in general and specific groups such as Jews in particular, a course on computers for the Roma minority and projects on intercultural education and on preserving the culture, language and identity of minorities. His Government saw no contradiction between the need to strengthen Latvian language and culture, which had been weakened during the period of Soviet rule, and support for minority languages and cultures. Although work clearly must continue to develop an appropriate legal framework and to eliminate extremism, it believed that cooperation and participation were the keys to increased social cohesion.

44. Mr. SICILIANOS welcomed the State party's efforts to deal with the problem of the large number of non-citizens by encouraging them to become naturalized citizens and noted that

very few applicants were rejected. He also welcomed the abolition of the language requirement for political candidates. He suggested that the transition period in the area of education be extended and that cooperation with minorities be further reinforced.

45. Mr. ABOUL-NASR said that, as a citizen of a country which had undergone long periods of foreign occupation, he wished to go on record as admiring the tremendous efforts made by the State party to strengthen its native language and culture.

46. Mr. AVTONOMOV requested information concerning measures envisaged to implement the recent Constitutional Court decision concerning private television broadcasting rights in minority languages.

47. Mr. MUIŽNIEKS (Latvia) stressed that his Government preferred non-citizens to opt to become Latvian citizens and, while it could not force them to do so, it was doing everything possible to encourage them. As far as radio and television legislation was concerned, he said that upon its return in September, Parliament would have to amend the existing law in the light of the recent Constitutional Court decision.

48. Mr. KJAERUM (Country Rapporteur) thanked the delegation for a most constructive and informative dialogue. It was clear that the State party's goal was to create a society made up mostly of Latvian citizens but which fully accepted its multi-ethnic diversity. The issue of political rights posed a dilemma: non-citizens could be denied the right to participate in local elections as an incentive to encourage them to apply for citizenship. On the other hand, allowing them to take part freely in local elections could increase their commitment to Latvian society and thereby motivate them to become citizens. It was important to address that issue in an open-minded manner.

49. He welcomed the fact that the State party's legislation in the areas of racial discrimination and criminal and labour law was being reformed to conform to European Union standards. That was important because, although the State party pursued a policy of cooperation and participation in dealing with minority issues, a comprehensive legal framework was needed to protect basic rights in cases where cooperation and participation failed to resolve problems. He therefore looked forward to receiving information on the new legal framework in the next report. He nevertheless expressed admiration for the significant achievements made in the field of human rights protection and the development of an open democratic society in a relatively short period of time.

50. The CHAIRMAN noted the positive changes in Latvia. Continued progress would require the majority to be generous and ensure protection of minority rights, while the minority should accept that it was living in a new country to which it must adapt.

51. Mr. MUIŽNIEKS (Latvia) thanked the Committee for providing his delegation with an opportunity to explain its Government's policies and also thanked the Country Rapporteur, who clearly had extensive knowledge of Latvia. He reiterated his Government's commitment to continued cooperation with the Committee in the context of meeting its international commitments.

52. The delegation of Latvia withdrew.

The meeting was suspended at 11.45 and resumed at 12.02 p.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING
MEASURES AND URGENT ACTION PROCEDURES (agenda item 3) (continued)

Draft Decision 2 (63) (continued) (CERD/C/63/Misc.11)

53. The CHAIRMAN drew the Committee's attention to Draft Decision 2 (63) concerning Israel's Nationality and Entry into Israel Law (Temporary Order) and the letter dated 14 August 2003 from the Permanent Mission of Israel addressed to the Chairman of the Committee. He recalled that the Human Rights Committee, in its concluding observations regarding the second periodic report of Israel, had expressed concern about that same measure (CCPR/CO/78/ISR, para. 21).

54. Mr. ABOUL-NASR said that Israeli human rights violations in the occupied territories had repeatedly been condemned by the international community. He felt that the Committee should express its concern about this new discriminatory measure and he had therefore prepared Draft Decision 2 (63), which echoed almost word-for-word the relevant paragraph of the concluding observations of the Human Rights Committee regarding the second periodic report of Israel, which had been adopted by consensus.

55. Mr. BOSSUYT regretted the Israeli action, which from a political point of view would certainly do nothing to improve the situation. From a juridical point of view, he said that the right to family reunification was not a right guaranteed by international instruments. However, singling out persons residing in the West Bank and in Gaza would appear to be discriminatory, thereby falling under the mandate of the Committee. Referring to the letter dated August 2003 from the Permanent Mission of Israel addressed to the Chairman of the Committee, he said he would welcome more information on the number of incidents in which spouses had abused their status to engage in terrorist attacks.

56. The language of the draft decision was moderate and reflected the comments of the Human Rights Committee. He wished to suggest, however, that in paragraph 1, first sentence, the word "subjective" should be replaced with "discretionary", which would allow the authorities to permit exceptions. In the second sentence, given the lack of statistics on the number of individuals affected, the words "thousands of" should be replaced with "many". Finally, in the second paragraph, second sentence, in order to stress the discriminatory nature of the law and justify the Committee's interest, the words "facilitating family reunification of all citizens and permanent residents" should be replaced with "not excluding persons residing in one particular region from family unification in Israel". It was better to refer to unification because it was new families which were being created and not existing families which were being reunified.

57. Mr. THORNBERRY proposed that the words "West Bank and in Gaza" in the penultimate sentence of the first paragraph should be replaced by "West Bank or Gaza". In the second paragraph, the words "revoke this law and" should be inserted after the words "The State party should" at the beginning of the second sentence.

58. Mr. BOSSUYT, adding to his earlier suggestions, said that in the second paragraph the words "on a non-discriminatory basis" should be inserted after "permanent residents".

59. Mr. PILLAI said that the text should emphasize the highly discriminatory nature of the Order, which applied only to certain categories of spouses.

60. The CHAIRMAN said that that concern had been addressed by the reference in the second paragraph to the fact that the Order raised serious issues under the International Convention on the Elimination of All Forms of Racial Discrimination.

61. Mr. BOSSUYT pointed out that, while he agreed that family reunification, where provided for, should be on a non-discriminatory basis, not all countries provided for the reunification of the families of all of their citizens and permanent residents.

62. Mr. de GOUTTES, joined by Mr. YUTZIS and Mr. BOSSUYT, agreed that the Committee's decision should stress the discriminatory nature of the Order.

63. Mr. HERNDL said that the Committee should take into account the fact that the Order was still being reviewed by Israel's highest judicial instance, the Supreme Court sitting as High Court of Justice, and that the domestic internal proceedings had not yet been exhausted.

64. The CHAIRMAN reminded the Committee that its decision was being taken under its urgent action procedures and that the Supreme Court might even find the decision helpful to its own consideration of the case.

65. Mr. ABOUL-NASR observed that the Order was already being enforced and that it clearly discriminated on the basis of race, since Israeli settlers in the West Bank or Gaza would presumably not be affected.

66. Mr. BOSSUYT questioned whether the reunification of families was a fundamental human right. However, where such rights were recognized, they should be enjoyed on a non-discriminatory basis. He reiterated that it would be more accurate to use the term "unification", since the families would not have been together previously.

67. Mr. YUTZIS said that Mr. Bossuyt had introduced an important nuance, which should be reflected in the draft text.

68. Mr. KJAERUM said that the reference to "all citizens and permanent residents" in the second paragraph was unnecessarily restrictive and should be deleted.

69. Mr. THORNBERRY said that, taking into account the drafting changes that had been agreed on, the draft decision should read as follows:

"The Committee is concerned about Israel's Temporary Suspension Order of May 2002 enacted into law as the Nationality and Entry into Israel Law (Temporary Order) on 31 July 2003, which suspends, for a renewable one-year period, the possibility of family unification, subject to limited and discretionary exceptions, in the cases of marriages between an Israeli citizen and a person residing in the West Bank or Gaza. The Committee notes with concern that the Suspension Order of May 2002 has already adversely affected many families and marriages.

“The Nationality and Entry into Israel Law (Temporary Order) raises serious issues under the International Convention on the Elimination of All Forms of Racial Discrimination. The State party should revoke this law and reconsider its policy with a view to facilitating family unification on a non-discriminatory basis. It should provide detailed information on this issue in its next periodic report.”

70. Draft Decision 2 (63), as orally amended, was adopted.

71. The CHAIRMAN said that the text of the decision would be released to the press and transmitted to the Permanent Mission of Israel.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Draft Decision 3 (63) (CERD/C/63/Misc.12)

72. The CHAIRMAN drew attention to the draft decision concerning the amendment to article 8 of the Convention. He took it that, subject to the editorial changes suggested by Mr. Thornberry, Ms. January-Bardill and Mr. Herndl, the Committee wished to adopt the draft text.

73. Draft Decision 3 (63) was adopted.

The meeting rose at 12.50 p.m.