



COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Seventieth session
19 February - 9 March 2007

Distr.
GENERAL

CERD/C/ISR/CO/13
14 June 2007

Original: ENGLISH

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

ISRAEL

1. The Committee considered the tenth to thirteenth periodic reports of Israel, submitted as one document (CERD/C/471/Add.2), at its 1794th and 1795th meetings (CERD/C/SR.1794 and 1795), held on 22 and 23 February 2007. At its 1810th and 1813th meetings (CERD/C/SR.1810 and 1813), held on 6 and 8 March 2007, it adopted the following concluding observations.

A. Introduction

2. The Committee appreciates the attendance of a large delegation, and welcomes the submission of the report, which contains important statistical data and information in relation to the implementation of the Convention in Israel. The Committee regrets, however, that many of the questions sent in advance to the State party remain unanswered.

3. The Committee regrets that, despite requests made in its previous concluding observations, the report has not provided any information on the Occupied Palestinian Territories, due to the position of the State party that the Convention does not apply to these Territories. It appreciates, however, that the delegation, while maintaining its position, provided responses to some of the questions raised by the Committee on this issue.

4. The Committee notes with satisfaction that numerous non-governmental organizations contributed to the process before the Committee. It is concerned however about the discrepancy of the assessment made by the State party on the one hand, and that made by an overwhelming majority of these organizations on the other hand, of the level of implementation of the Convention by the State party.

5. Noting that the report was more than five years overdue when submitted, the Committee invites the State party to respect the deadline set for the submission of its future reports.

B. Positive aspects

6. The Committee notes with interest the role played by the Supreme Court of Israel in combating racial discrimination, for example in matters of allocation of State land, as demonstrated by its 2000 decision in *Ka'adan v. The Israel Lands Administration*.

7. The Committee notes with satisfaction the domestic legislation implementing article 4 of the Convention, as well as efforts made by the State party to tackle the issue of violence and racism linked to football.

8. The Committee welcomes affirmative action programmes to ensure better representation of minority groups in the civil service and within government-owned corporations, and encourages the State party to enhance its efforts in this direction.

9. The Committee notes with satisfaction that for the first time an Arab Israeli citizen has been appointed to the cabinet.

10. The Committee welcomes the enactment of the Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law (2000).

11. The Committee notes with appreciation that the civil service sector has taken steps to accommodate the different cultural and religious traditions and practices of minority employees at work.

12. The Committee welcomes efforts made by the State party to improve the status of the Arabic language, in particular steps taken to add Arabic to all existing intercity and highway road signs, as well as to municipal signs in municipalities where there exists an Arab minority.

C. Factors and difficulties impeding the implementation of the Convention

13. In the present context of violence, the Committee recognizes the difficulties of the State party in fully implementing the Convention. Guided by the principles of the Convention, the State party should ensure, however, that security measures taken in response to legitimate security concerns are guided by proportionality, and do not discriminate in purpose or in effect against Arab Israeli citizens, or Palestinians in the Occupied Palestinian Territories, and that they are implemented with full respect for human rights as well as relevant principles of international humanitarian law.

14. The Committee reiterates the view that the Israeli settlements in the Occupied Palestinian Territories, in particular the West Bank, including East Jerusalem, are not only illegal under international law but are an obstacle to the enjoyment of human rights by the whole population, without distinction as to national or ethnic origin. Actions that change the demographic composition of the Occupied Palestinian Territories are also of concern as violations of human rights and international humanitarian law.

D. Concerns and recommendations

15. The Committee, bearing in mind the oral clarification provided by the delegation, notes the absence of information on the ethnic plurality of the Jewish population of Israel, particularly in the context of the Law of Return.

The State party is requested to provide information on the ethnic composition of the Jewish population of Israel, in order to facilitate a full understanding of the implementation of the Convention in the State party's jurisdiction.

16. The Committee welcomes the fact that several pieces of legislation prohibit racial discrimination, for example in the field of health, employment, education, and access to products and services, and takes into consideration the information provided by the delegation relating to the jurisprudence of the Supreme Court. The Committee remains concerned however that no general provision for equality and prohibition of racial discrimination has been included in the Basic Law: Human Dignity and Liberty (1992), which serves as Israel's bill of rights. (Article 2 of the Convention)

The Committee recommends that the State party ensure that the prohibition of racial discrimination and the principle of equality be enacted as general norms of high status in domestic law.

17. The Committee welcomes the statement made by the delegation that the Jewish character of the State party does not allow it to discriminate between its citizens. It also notes the statement that the only significant difference regarding the enjoyment of human rights between Jewish nationals and other citizens exists with regard to determining the right to immigrate to Israel, according to the Law of Return, and that such preference is made for the purpose of developing the national identity of the State party. The Committee is concerned, however, by reports that such preference is accompanied by other privileges, in particular regarding access to land and benefits. (Articles 1, 2 and 5 of the Convention)

The Committee recommends that the State party ensure that the definition of Israel as a Jewish nation State does not result, in any systemic distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin in the enjoyment of human rights. The Committee would welcome receiving more information on how the State party envisages the development of the national identity of all its citizens.

18. The Committee is concerned about the denial of the right of many Palestinians to return and repossess their land in Israel. (Article 5 (d) (ii) and (v) of the Convention)

The Committee reiterates its view, expressed in its previous concluding observations on this issue, and urges the State party to assure equality in the right to return to one's country and in the possession of property.

19. The Committee regrets that it has not received sufficient information from the State party on the status, mandate and responsibility of the World Zionist Organization, the Jewish Agency and the Jewish National Fund, as well as on their budgets and allocation of funds. It is concerned by information according to which these institutions manage land, housing and services exclusively for the Jewish population. (Articles 2 and 5 of the Convention)

The Committee urges the State party to ensure that these bodies are bound by the principle of non-discrimination in the exercise of their functions.

20. The Committee notes with concern that the Citizenship and Entry into Israel Law (Temporary Order) of 31 May 2003 suspends the possibility of granting Israeli citizenship and residence permits in Israel, including through family reunification, to residents of the Occupied Palestinian Territories, except in limited and discretionary exceptions. Such measures have a disproportionate impact on Arab Israeli citizens wishing to be reunited with their families in Israel. While noting the State party's legitimate objective of guaranteeing the safety of its c The Committee notes with concern that the Citizenship and Entry into Israel Law (Temporary Order) of 31 May 2003 suspends the possibility of granting Israeli citizenship and residence permits in Israel, including through family reunification, to residents of the Occupied Palestinian Territories, except in

limited and discretionary exceptions. Such measures have a disproportionate impact on Arab Israeli citizens wishing to be reunited with their families in Israel. While noting the State party's legitimate objective of guaranteeing the safety of its citizens, the Committee is concerned that these "temporary" measures have systematically been renewed, and have been expanded to citizens of "enemy States". Such restriction targeting a particular national or ethnic group in general is not compatible with the Convention, in particular the obligation of the State party to guarantee to everyone equality before the law. (Articles 1, 2 and 5 of the Convention)

The Committee recommends that the State party revoke the Citizenship and Entry into Israel Law (Temporary Order), and reconsider its policy with a view to facilitating family reunification on a non-discriminatory basis. The State party should ensure that restrictions on family reunification are strictly necessary and limited in scope, and are not applied on the basis of nationality, residency or membership of a particular community.

21. The Committee notes with concern that military service provides highly advantageous access to various public services, for example in the fields of housing and education. Such a policy is not compatible with the Convention, bearing in mind that most Arab Israeli citizens do not perform national service. (Articles 2 and 5 of the Convention)

The Committee recommends that the State party adopt measures to ensure that access to public services is ensured to all without discrimination, whether direct or indirect, based on race, colour, descent, or national or ethnic origin.

22. The Committee notes with deep concern that separate "sectors" are maintained for Jewish and Arab persons, in particular in the areas of housing and education, and that according to some information, such separation results in unequal treatment and funding. The Committee regrets that information provided by the State party on this matter was not sufficiently detailed. (Articles 3, 5 and 7 of the Convention)

The Committee recommends that the State party assess the extent to which the maintenance of separate Arab and Jewish "sectors" may amount to racial segregation. The State party should develop and implement policies and projects aimed at avoiding separation of communities, in particular in the areas of housing and education. Mixed Arab-Jewish communities and schools should be promoted and strong action taken to promote intercultural education.

23. The Committee welcomes the decisions of the Supreme Court in *Ka'adan v. The Israel Lands Administration* (2000) and *Kibbutz Sde-Nahum et al v. Israel Land Administration et al* (2002), in which it ruled that State land should not be allocated on the basis of any discriminatory criteria or to a specific sector. It notes that the Israel Land Administration, as a result, has adopted new admission criteria for all applicants. It remains concerned, however, that the condition that applicants must be "suitable to a small communal regime" may allow, in practice, for the exclusion of Arab Israeli citizens from some State-controlled land. (Articles 2, 3 and 5 (d) and (e) of the Convention)

The Committee recommends that the State party take all measures to ensure that State land is allocated without discrimination, direct or indirect, based on race, colour, descent, or national or ethnic origin. The State party should assess the significance and impact of the social suitability criterion in this regard.

24. The Committee notes the efforts made by the State party to promote development within the Arab sector, in particular through the Multi-year Plan (2001-2004). It remains concerned however that the lower level of education provision for Arab Israeli citizens is a barrier to their access to employment, and that their average income is significantly lower than that of Jewish citizens. It is also concerned by the discrepancies still remaining between the infant mortality rates and life expectancy rates of Jewish and non-Jewish populations, and by the fact that minority women and girl children are often the most disadvantaged. (Articles 2 and 5 (e) of the Convention)

The Committee recommends that the State party increase its efforts to ensure the equal enjoyment of economic, social and cultural rights by Arab Israeli citizens, in particular their right to work, health and education. The State party should assess the extent to which the alleged discriminatory attitudes of employers against Arabs, scarcity of jobs near Arab communities, and lack of daycare centers in Arab villages are a cause of high unemployment rates among Arabs. Bearing in mind its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee also recommends that the State party pay particular attention to the situation of Arab women in this regard.

25. The Committee expresses concern about the relocation of inhabitants of unrecognized Bedouin villages in the Negev/Naqab to planned towns. While taking note of the State party's assurances that such planning has been undertaken in consultation with Bedouin representatives, the Committee notes with concern that the State party does not seem to have enquired into possible alternatives to such relocation, and that the lack of basic services provided to the Bedouins may in practice force them to relocate to the planned towns. (Articles 2 and 5 (d) and (e) of the Convention)

The Committee recommends that the State party enquire into possible alternatives to the relocation of inhabitants of unrecognized Bedouin villages in the Negev/Naqab to planned towns, in particular through the recognition of these villages and the recognition of the rights of the Bedouins to own, develop, control and use their communal lands, territories and resources traditionally owned or otherwise inhabited or used by them. It recommends that the State party enhance its efforts to consult with the inhabitants of the villages and notes that it should in any case obtain the free and informed consent of affected communities prior to such relocation.

26. The Committee notes with satisfaction that the laws of the State party prohibit the withholding of passports of migrant workers, prohibit employment agencies from collecting fees from migrant workers, and allow migrant workers to change employers without losing their work permit. It regrets however that it has not received sufficient information on the practical implementation of these laws. (Article 5 (e) (i) of the Convention)

The State party should make all efforts to ensure the full implementation of these laws, and provide the Committee with detailed information, including statistical data, on this matter. The Committee also draws the attention of the State party to general recommendation No. 30 (2005) on discrimination against non-citizens and encourages the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

27. The Committee expresses concern about information, according to which the psychometric examinations used to test aptitudes, ability and personality, indirectly discriminate against Arabs in accessing higher education, an allegation that the State party has not commented upon as requested. (Articles 2 and 5 (e) (v) of the Convention)

The State party should ensure that access to higher education is ensured for all without discrimination, whether direct or indirect, based on race, colour, descent, or national or ethnic origin.

28. The Committee expresses concern at information that several laws establish Jewish cultural institutions but that none create similar centers for Arab Israeli citizens, and that the same level of protection is not offered to Jewish and non-Jewish holy sites. The Committee regrets that the State party has not commented on these allegations as requested. (Articles 2, 5 (d) (vii) and (e) (vi) and 7 of the Convention)

The State party should ensure that laws and programmes be equally devoted to the promotion of cultural institutions and the protection of holy sites of both Jewish and other religious communities.

29. The Committee regrets that the State party has not provided detailed information as requested on the number of complaints, investigations, indictments and prosecutions in relation to acts criminalized under articles 133 and 144 A-E of the Penal code, as well as on their outcomes. It is concerned by information, according to which the Attorney-General has adopted a restrained policy in relation to prosecutions against politicians, government officials and other public figures for hate speech against the Arab minority, an allegation that the State party cannot justify by mere reference to the right to freedom of expression. (Article 4 of the Convention)

The State party should increase its efforts to prevent racially motivated offences and hate speech, and to ensure that relevant criminal law provisions are effectively implemented. The Committee recalls that the exercise of the right to freedom of expression carries special duties and responsibilities, in particular the obligation not to disseminate racist ideas. It recommends that the State party take resolute action to counter any tendency to target, stigmatize, stereotype or profile people on the basis of race, colour, descent, and national or ethnic origin, especially by politicians. Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee also requests the State party to remind public prosecutors of the general importance of prosecuting racist acts, including all offences committed with racist motives.

30. The Committee notes with concern information according to which a high number of complaints filed by Arab Israeli citizens against law enforcement officers are not properly and effectively investigated and that the Police Investigations Unit (Mahash) of the Ministry of Justice lacks independence. It regrets that the State party has not commented on this allegation as requested, nor provided any information as to whether the persons responsible for the killings of 14 Israeli citizens in October 2000 have been prosecuted and sentenced. (Articles 4, 5 (a) and (b), and 6) of the Convention)

Bearing in mind general recommendation No. 31 (2005) of the Committee, the State party should guarantee the right of every person within its jurisdiction to an effective remedy against the perpetrators of acts of racial discrimination, or acts committed with racist motives, without discrimination of any kind, whether such acts are committed by private individuals or State officials, as well as the right to seek just and adequate reparation for the damage suffered. The State party should ensure that complaints are recorded immediately, and that investigations are pursued without delay and in an effective, independent and impartial manner.

31. The Committee notes that the State party has neither established a specialized agency on racial discrimination nor a national human rights institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex). (Articles 2 and 6 of the Convention)

The Committee recommends that the State party consider the establishment of a national mechanism for redress of racial discrimination either as a specialized agency on racial discrimination or a national human rights institution in accordance with the Paris Principles.

The Occupied Palestinian Territories

32. The Committee reiterates its concern at the position of the State party to the effect that the Convention does not apply in the Occupied Palestinian Territories and the Golan Heights. Such a position cannot be sustained under the letter and spirit of the Convention, or under international law, as also affirmed by the International Court of Justice. The Committee is concerned at the State party's assertion that it can legitimately distinguish between Israelis and Palestinians in the Occupied Palestinian Territories on the basis of citizenship. It reiterates that the Israeli settlements are illegal under international law.

The Committee recommends that the State party review its approach and interpret its obligations under the Convention in good faith, in accordance with the ordinary meaning to be given to its terms in their context, and in the light of its object and purpose. The Committee also recommends that the State party ensures that Palestinians enjoy full rights under the Convention without discrimination based on citizenship and national origin.

33. The Committee, while noting that the Supreme Court has recommended that the course of the wall be changed to prevent disproportionate harm to specific Palestinian communities, is concerned that the State party has chosen to disregard the 2004 advisory opinion of the International Court of Justice on the legal consequences of the construction of the wall in the Occupied Palestinian Territories. The Committee is of the opinion that the wall and its associated regime raise serious concerns under the Convention, since they gravely infringe a number of human rights of Palestinians residing in the territory occupied by Israel. These infringements cannot be justified by military exigencies or by the requirements of national security or public order. (Articles 2, 3 and 5 of the Convention)

The Committee recommends that the State party cease the construction of the wall in the Occupied Palestinian Territories, including in and around East Jerusalem, dismantle the structure therein situated and make reparation for all damage caused by the

construction of the wall. The Committee also recommends that the State party take action to give full effect to the 2004 advisory opinion of the International Court of Justice on the legal consequences of the construction of the wall in the Occupied Palestinian Territories.

34. The Committee is deeply concerned that the severe restrictions on the freedom of movement in the Occupied Palestinian Territories, targeting a particular national or ethnic group, especially through the wall, checkpoints, restricted roads and permit system, have created hardship and have had a highly detrimental impact on the enjoyment of human rights by Palestinians, in particular their rights to freedom of movement, family life, work, education and health. It is also concerned that the Order on Movement and Travel (Restrictions on Travel in an Israeli Vehicle) (Judea and Samaria), of 19 November 2006, which bans Israelis from transporting Palestinians in their vehicles in the West Bank, except in limited circumstances, has been suspended but not cancelled. (Articles 2, 3 and 5 of the Convention)

The State party should review these measures to ensure that restrictions on freedom of movement are not systematic but only of temporary and exceptional nature, are not applied in a discriminatory manner, and do not lead to segregation of communities. The State party should ensure that Palestinians enjoy their human rights, in particular their rights to freedom of movement, family life, work, education and health.

35. The Committee notes with concern the application in the Occupied Palestinian Territories of different laws, policies and practices applied to Palestinians on the one hand, and to Israelis on the other hand. It is concerned, in particular, by information about unequal distribution of water resources to the detriment of Palestinians, about the disproportionate targeting of Palestinians in house demolitions and about the application of different criminal laws leading to prolonged detention and harsher punishments for Palestinians than for Israelis for the same offences. (Articles 2, 3 and 5 of the Convention)

The State party should ensure equal access to water resources to all without any discrimination. The Committee also reiterates its call for a halt to the demolition of Arab properties, particularly in East Jerusalem, and for respect for property rights irrespective of the ethnic or national origin of the owner. Although different legal regimes may apply to Israeli citizens living in the Occupied Palestinian Territories and Palestinians, the State party should ensure that the same crime is judged equally, not taking into consideration the citizenship of the perpetrator.

36. The Committee is concerned about the excavations beneath and around Al-Aqsa Mosque and the possible irreparable damage these may cause to the mosque. (Articles 5 (d) (vii) and (e) (vi), and 7 of the Convention)

While stressing that the Al-Aqsa Mosque is an important cultural and religious site for people living in the Occupied Palestinian Territories, the Committee urges the State party to ensure that the excavations in no way endanger the mosque and impede access to it.

37. The Committee is concerned by the persistence of violence perpetrated by Jewish settlers, in particular in the Hebron area. (Articles 4 and 5 of the Convention)

The Committee recommends that the State party increase its efforts to protect Palestinians against such violence. The State party should ensure that such incidents are investigated in a prompt, transparent and independent manner, the perpetrators are prosecuted and sentenced, and that avenues for redress are offered to the victims.

38. The Committee recommends that the State party ratify the amendment to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in resolution 47/111. In this connection, the Committee cites General Assembly resolution 57/194 of 18 December 2002, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal was made by the Assembly in resolution 58/160 of 22 December 2003.

39. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and urges it to consider doing so.

40. The Committee recommends that the State party's reports be made readily available to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicized in Hebrew and Arabic.

41. The Committee recommends that the State party consult widely with civil society organizations working in the field of combating racial discrimination, in connection with the preparation of the next periodic report.

42. The Committee invites the State party to submit its core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, recently approved by the international human rights treaty-bodies (HRI/MC/2006/3 and Corr.1).

43. The State party should, within one year, provide information on the way it has followed up on the Committee's recommendations contained in paragraphs 20, 22, 25 and 34 above, pursuant to paragraph 1 of rule 65 of the Committee's rules of procedure. The Committee is aware that issues raised under paragraph 22 may not be resolved within one year, but wishes to receive comments by the State party on the concerns expressed by the Committee, as well as information on first steps taken to implement the recommendations of the Committee.

44. The Committee recommends that the State party submit its fourteenth, fifteenth and sixteenth periodic reports in a single document, due on 2 February 2010, and that the report be an update document and address all points raised in the present concluding observations.