



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Eightieth session

13 February – 9 March 2012

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 fourteenth to sixteenth periodic reports of Israel, submitted in one document (CERD/C/ISR/14-16), at its 2131st and 2132th meetings (CERD/C/SR.2131 and 2132), held on 15 and 16 February 2012. At its 2148th meeting (CERD/C/SR.2148), held on 28 February 2012, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the detailed, although rather lengthy, report submitted by the State party, and expresses appreciation for the frank and constructive oral responses provided by the large delegation during the consideration of the report.

3. The Committee recognizes the issues related to security and stability in the region. The State party should, however, ensure that, in conformity with the principles of the Convention, measures taken are proportionate, do not discriminate in purpose or in effect against Palestinian citizens of Israel, or Palestinians in the Occupied Palestinian Territory, or any other minorities whether in Israel proper or in territories under the State party's effective control; and that they are implemented with full respect for human rights as well as relevant principles of international humanitarian law.

4. The Committee reiterates its view that the Israeli settlements in the Occupied Palestinian Territory, 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 Territory and the Occupied Syrian Golan are also of concern as violations of human rights and international humanitarian law.

B. Positive aspects

5. The Committee welcomes the efforts made by the State party to address inequality, particularly in the area of employment and education, faced by the most vulnerable groups in Israeli society, and acknowledges that it has made progress in this regard in Israel proper.
6. The Committee welcomes the enactment of the 2008 Prohibition of Violence in Sport Law and the enactment of the Expansion of Adequate Representation for Persons of the Ethiopian Community in the Public Service (Legislative Amendments) Law (5771-2011) on March 28, 2011.
7. The Committee welcomes the establishment in the Prime Minister's Office of the Economic Development Authority for the Arab, Druze and Circassian Sectors and the allocation of a consequential budget for its functioning, and the adoption of a Five-Year Plan for the Economic Development of Minority Localities.
8. The Committee welcomes the announcement made by the delegation on the establishment in 2011 of a joint inter-ministerial team headed by one of the Ministry of Justice's Deputy Attorney Generals, for implementing the treaty bodies' concluding observations on Israel, as well as the establishment by the Ministry of Interior and the Minister of Public Security of a ministerial team, which meets regularly to address matters relating to violence perpetrated by Jewish settlers and its severe consequences.
9. The Committee also welcomes affirmative action measures taken by the State party to enhance the integration of the Arab and Druze population into the civil service.

C. Concerns and recommendations

General situation

10. The Committee takes note of the willingness of the State party delegation to discuss questions regarding the West Bank and the Gaza Strip but regrets that the report did not contain any information concerning the population living in these territories. In this regard, the Committee is deeply concerned at the position of the State party to the effect that the Convention does not apply to all the territories under the State party's effective control, which not only include Israel proper but also the West Bank, including East Jerusalem, the Gaza Strip and the Occupied Syrian Golan. The Committee reiterates that such a position is not in accordance with the letter and spirit of the Convention, and international law, as also affirmed by the International Court of Justice and by other international bodies.

Recalling its previous concluding observations (CERD/C/ISR/CO/13, para. 32), the Committee strongly urges the State party to review its approach and interpret its obligations under the Convention in good faith and in accordance with international law. The Committee also urges the State party to ensure that all civilians under its effective control enjoy full rights under the Convention without discrimination based on ethnicity, citizenship, or national origin.

11. The Committee notes with increased concern that Israeli society maintains Jewish and non-Jewish sectors, which raises issues under article 3 of the Convention. Clarifications provided by the delegation confirmed the Committee's concerns in relation to the existence of two systems of education, one in Hebrew and one in Arabic, which except in rare circumstances remain impermeable and inaccessible to the other community, as well as separate municipalities: Jewish municipalities and the so-called "municipalities of the minorities". The enactment of the Admissions Committees Law (2011), which gives private committees full discretion to reject applicants deemed "unsuitable to the social life of the

community”, is a clear sign that the concerns as regards segregation remain pressing (arts. 3, 5 and 7 of the Convention).

Recalling its previous concluding observations (CERD/C/ISR/CO/13, para. 22), the Committee urges the State party to give full effect to article 3 and to make every effort to eradicate all forms of segregation between Jewish and non-Jewish communities. The State party is requested to provide information on action taken in this regard in its next periodic report.

12. Bearing in mind the clarifications provided by the delegation, the Committee regrets the absence of statistical information on the ethnic plurality of the Jewish population of Israel.

Recalling its previous concluding observations (CERD/C/ISR/CO/13, para. 15), the Committee strongly recommends that the State party provide information on the composition of the Jewish population of Israel, disaggregated by relevant criteria.

13. As mentioned in its previous concluding observations (CERD/C/ISR/CO/13, para. 16), the Committee is concerned that no general provision for equality and the prohibition of racial discrimination has been included in the Basic Law: Human Dignity and Liberty (1992), which serves as Israel’s bill of rights; nor does Israeli legislation contain a definition of racial discrimination in accordance with article 1 of the Convention. These lacunae seriously undermine the protection afforded to all persons under the jurisdiction of the State party for equal access to human rights (art. 2 of the Convention).

The Committee reiterates its previous concluding observations (CERD/C/ISR/CO/13, para. 16) and recommends that the State party ensure that the prohibition of racial discrimination and the principle of equality are included in the Basic Law and that a definition of racial discrimination is duly incorporated into the Law.

14. While noting the existence of criminal legislation on incitement to racism, racist organizations and participation in and support for such organizations, the Committee is concerned about the limitations therein, such as the restricted definition of racism, the exclusive role of the Attorney General in authorizing the prosecution of offences of incitement to racism, and the overly strict approach of Israeli legislation to proving the intentional element of such crimes. While noting the State party’s concerns in regard to freedom of speech, the Committee recalls that the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression (arts. 2 and 4 of the Convention).

The Committee recommends that the State party amend its current legislation to modify current requirements relating to the proof of intent for the criminal offence of incitement to racism; that it provide a more comprehensive mechanism of protection by extending the power to investigate and indict to other bodies of the judiciary; and that it expand the definition of racism to include incitement on account of ethnic origin, country of origin, and religious affiliation, when there is intersectionality of these elements, so as to equally protect Ethiopians, Russians, Sephardim, and any other groups that are currently not sufficiently protected by the Law.

15. The Committee notes with concern the enactment of a number of discriminatory laws on land issues which disproportionately affect non-Jewish communities. The Committee is particularly concerned at the enactment of the Israel Land Administration Law of 2009; the 2010 Amendment to the Land (Acquisition for Public Purposes) Ordinance (1943); the 2010 Amendment to the Negev Development Authority Law (1991), and the Admissions Committees Law (2011) (Articles 3 and 5 of the Convention).

In line with its previous concluding observations (CERD/C/ISR/CO/13, para. 19), the Committee strongly recommends that the State party ensure equal access to land and

property and to that end abrogate or rescind any legislation that does not comply with the principle of non-discrimination.

16. The Committee notes with concern the adoption of laws and the consideration of bills conditioning social and economic benefits on completion of military service, thus excluding non-Jewish communities who are exempted from military service such as Palestinian citizens of Israel. Moreover, it regrets the adoption of the 2009 Special Amendment No. 6 to the Regional Councils Law (Date of General Elections) (1994), which could considerably restrict the political participation of non-Jewish minorities (arts. 2 and 5 of the Convention).

The Committee recommends that the State party abrogate all discriminatory laws and rescind all discriminatory bills so as to ensure non-Jewish communities' equal access to work and social benefits as well as the right to political participation enshrined in the Convention.

17. While the Committee notes the existence of State mechanisms for the protection and promotion of human rights such as the State Comptroller, which also seems to fulfil the function of the Ombudsman, as well as a special office within the Prime Minister's Office dedicated to the Economic Development for the Arab, Druze and Circassian Sectors, and a Minister for Minorities, the individual competence of and the division of labour between these bodies are not clear. The Committee regrets the absence of a specialized agency on racial discrimination or a national human rights institution established 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) (arts. 2 and 6 of the Convention).

The Committee reiterates its previous recommendation (CERD/C/ISR/CO/13, para. 31) 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 as a national human rights institution in accordance with the Paris Principles.

18. The Committee reiterates its concern at the maintenance of discriminatory laws especially targeting Palestinian citizens of Israel such as the Citizenship and Entry into Israel Law (Temporary Provision). The Law suspends the possibility, with certain rare exceptions, of family reunification between an Israeli citizen and a person residing in the West Bank, including East Jerusalem, or the Gaza Strip, thus greatly affecting family ties and the right to marriage and choice of spouse. The Committee is particularly concerned at the recent decision of the High Court of Justice, which confirmed its constitutionality (Articles 2 and 5 of the Convention).

The Committee urges the State party to revoke the *Citizenship and Entry into Israel Law (Temporary provision)* and to facilitate family reunification of all citizens irrespective of their ethnicity or national or other origin.

19. While some efforts have been made to improve the access to economic and social rights of non-Jewish minorities, such as the adoption in March 2010 of a Five Year Plan for the Economic Development of Minority Localities and reforms engaged for increased protection of migrant workers, the socio-economic gap between Jewish and non-Jewish communities remains worrying. It is of great concern that the two communities often continue to be compartmentalized, with one accessing education in Hebrew in Jewish schools and the other often living in separate municipalities and attending Arabic-language schools. Such separation is an obstacle to uniform access to education and empowerment. The Committee is particularly concerned at the continued low level of education and managerial employment of non-Jewish women in the private and public sectors (arts.2 and 5 (e) (i) and (v) of the Convention).

In line with its previous concluding observations (CERD/C/ISR/CO/13, para. 24), the Committee strongly recommends that the State party ensure equal enjoyment of economic and social rights for non-Jewish minorities, in particular their right to work and education.

In line with its general recommendation 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party redouble its efforts to achieve equality in women's access to all the rights enshrined in the Convention.

20. The Committee is concerned about the current situation of Bedouin communities, particularly with regard to the policy of demolitions, notably of homes and other structures, and the increasing difficulties faced by members of these communities in gaining access on a basis of equality with Jewish inhabitants to land, housing, education, employment and public health.

The Committee recommends that the State party address satisfactorily the problems faced by Bedouin communities, in particular with regard to the loss of their land and access to new land. The Committee also recommends that the State party step up its efforts to ensure equal access to education, work, housing and public health in all territories under the State party's effective control. In this regard, the State party should withdraw the 2012 discriminatory proposed Law for the Regulation of the Bedouin Settlement in the Negev, which would legalize the ongoing policy of home demolitions and forced displacement of the indigenous Bedouin communities.

21. Despite some information contained in the State party's report and clarifications provided orally by the delegation, the Committee remains concerned at the lack of consideration given to de facto and perceived discrimination towards minorities within the Jewish population. Worrying information provided by civil society and observed in the media sheds light on the issue of underrepresentation of Mizrahi groups in higher education, the academic-management job market and the political/judicial sphere. Despite increased efforts aimed at addressing unequal access to education and employment for newly arrived Jewish communities, the Committee remains particularly concerned at allegations of ongoing discrimination, especially by private individuals, against Ethiopian Jews. The Committee is also concerned at discrimination targeting women from Jewish minorities in relation to the implementation of religious laws (art. 5 of the Convention).

The Committee recommends that the State party adequately address all forms of racial discriminations affecting Jewish minorities so as to ensure equal enjoyment of their rights, particularly in the areas of the right to education, work and political representation. The Committee recommends that the State party pay particular attention to gender-related discrimination affecting women from Jewish minorities, especially those with low economic status.

22. The Committee notes the State party's efforts to accept and host asylum-seekers and refugees on its territory and the protection framework afforded to migrant workers against potential abuses by employers. The Committee is, however, concerned at the stigmatization of migrant workers on the basis of their country of origin, as suggested by the enactment of the 2012 Law to Prevent Infiltration, pursuant to which irregular asylum-seekers can be imprisoned for at least three years upon entry into Israel and asylum-seekers from "enemy states" can serve life sentences (arts. 2 and 5(d) (iii) of the Convention).

Recalling its general recommendation 30 (2004) on discrimination against non-citizens, the Committee urges the State party to amend the Law to Prevent Infiltration and any other legislation aimed at discriminating against asylum-seekers or denying refugees, on the basis of their national origin, the protection guaranteed under the 1951 Geneva Convention relating to the Status of Refugees.

23. The Committee is concerned at the recent increase in racist and xenophobic acts, manifestations and discourse, especially against Palestinian citizens of Israel, Palestinians residing in the Occupied Palestinian Territory including East Jerusalem, and asylum-seekers of African origin. The Committee is greatly preoccupied at the unavailability of precise data on complaints, investigations, indictments and prosecutions against politicians, public officials and religious leaders involved in such manifestations and discourse as well as on the outcome of the procedures related to these complaints (arts. 2, 4, 6 and 7 of the Convention).

Recalling its previous concluding observations (CERD/C/ISR/CO/13, para. 29), the Committee recommends that, in addressing issues that affect various vulnerable population groups, the State party make it quite clear, in its discourse and its action, that it has the political will to promote understanding, tolerance and friendship between individuals irrespective of their origin.

The Committee also recommends that the State party step up its efforts and use all possible means to counter and stem the tide of racism and xenophobia in public discourse, in particular by strongly condemning all racist and xenophobic statements by public officials and political and religious leaders, and by implementing appropriate measures to combat the proliferation of acts and manifestations of racism that particularly target non-Jewish minorities in the territories under the State party's effective control.

Recalling its general recommendation 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 and the judiciary as a whole of the general importance of even-handedly prosecuting racist acts, irrespective of the alleged perpetrators' status.

The Occupied Palestinian Territory, including East Jerusalem, and the Occupied Syrian Golan.

24. The Committee is extremely concerned at the consequences of policies and practices which amount to de facto segregation, such as the implementation by the State party in the Occupied Palestinian Territory of two entirely separate legal systems and sets of institutions for Jewish communities grouped in illegal settlements on the one hand and Palestinian populations living in Palestinian towns and villages on the other hand. The Committee is particularly appalled at the hermetic character of the separation of two groups, who live on the same territory but do not enjoy either equal use of roads and infrastructure or equal access to basic services and water resources. Such separation is concretized by the implementation of a complex combination of movement restrictions consisting of the Wall, roadblocks, the obligation to use separate roads and a permit regime that only impacts the Palestinian population (art. 3 of the Convention).

The Committee draws the State party's attention to its general recommendation 19 (1995) concerning the prevention, prohibition and eradication of all policies and practices of racial segregation and apartheid, and urges the State party to take immediate measures to prohibit and eradicate any such policies or practices which severely and disproportionately affect the Palestinian population in the Occupied Palestinian Territory and which violate the provisions of article 3 of the Convention.

25. The Committee is increasingly concerned at the State party's discriminatory planning policy, whereby construction permits are rarely if ever granted to Palestinian and Bedouin communities and demolitions principally target property owned by Palestinians and Bedouins. The Committee is concerned at the adverse tendency of preferential treatment for the expansion of Israeli settlements, through the use of "state land" allocated for settlements, the provision of infrastructure such as roads and water systems, high

approval rates for planning permits and the establishment of Special Planning Committees consisting of settlers for consultative decision-making processes. The Committee is greatly concerned at the State party's policy of "demographic balance", which has been a stated aim of official municipal planning documents, particularly in the city of Jerusalem (arts. 2, 3 and 5 of the Convention).

In light of its previous concluding observations (CERD/C/ISR/CO/13, para. 35) and considering that the current Israeli planning and zoning policy in the West Bank, including East Jerusalem, seriously breaches a range of fundamental rights under the Convention, the Committee urges the State party to reconsider the entire policy in order to guarantee Palestinian and Bedouin rights to property, access to land, access to housing and access to natural resources (especially water resources). The Committee also recommends that any planning and zoning policy be implemented in consultation with the populations directly affected by those measures. It calls on the State party to eliminate any policy of "demographic balance" from its Jerusalem Master Plan as well as from its planning and zoning policy in the rest of the West Bank.

26. Despite explanations provided by the delegation during the dialogue, the Committee remains concerned at the dramatic and disproportionate impact of the Israel Defense Forces' blockade and military operations on Palestinians' right to housing and basic services in the Gaza Strip. The Committee received worrying reports that only a minority of houses and civilian infrastructures, such as schools, hospitals and water plants, could be rebuilt, due to the State party's blockade on the import of construction materials into the Gaza Strip (arts. 2, 3 and 5 of the Convention).

The State party should fully respect the norms of humanitarian law in the Occupied Palestinian Territory, rescind its blockade policy and urgently allow all construction materials necessary for rebuilding homes and civilian infrastructures into the Gaza Strip so as to ensure respect for Palestinians' right to housing, education, health, water and sanitation in compliance with the Convention.

27. The Committee is extremely concerned at the existence of two sets of laws, for Palestinians on the one hand and Jewish settlers on the other hand who reside in the same territory, namely the West Bank, including East Jerusalem, and are not subject to the same justice system (criminal as well as civil matters). The Committee is particularly concerned at worrying reports of an increase in the arrest and detention of children and of the undermining of their judicial guarantees, notably in relation to the competence of military courts to try Palestinian children, which is inconsistent with international law. The Committee expresses great concern at the State party's maintenance of administrative detention for both Palestinian children and adults based on evidence that is kept secret for security reasons. It also expresses concern at the monetary and physical obstacles faced by Palestinians seeking compensation before Israeli tribunals for loss suffered, in particular as a consequence of the IDF Operation Cast Lead in the Gaza Strip (arts. 3, 5 and 6 of the Convention).

Recalling its general recommendation 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party ensure equal access to justice for all persons residing in territories under the State party's effective control. The Committee urges the State party to end its current practice of administrative detention, which is discriminatory and constitutes arbitrary detention under international human rights law.

28. The Committee is concerned about the increase in racist violence and acts of vandalism on the part of Jewish settlers in the Occupied Palestinian Territory targeting non-

Jews, including Muslims and Christians and their holy places, and about information according to which 90 per cent of Israeli police investigations into settler-related violence carried out between 2005 and 2010 were closed without prosecution. The Committee is particularly alarmed by reports of impunity of terrorist groups such as Price Tag, which reportedly enjoy political and legal support from certain sections of the Israeli political establishment. The Committee is also concerned about the impact of settler violence on the right of women and girls to access basic services such as the right to education (arts. 4 and 5 of the Convention).

While noting with interest the establishment of the ministerial team meant to address matters relating to settler violence, the Committee, recalling its previous concluding observations (CERD/C/ISR/CO/13, para. 37), urges the State party to ensure that all forms of violence and harassment are impartially investigated by the judiciary and that perpetrators are prosecuted to the fullest extent of the law, irrespective of their national, ethnic or other origin.

29. The Committee remains concerned at the vulnerable situation of Syrian residents of the Occupied Syrian Golan and their unequal access to land, housing and basic services. The Committee is also gravely concerned at the continued impact of the Citizenship Law on family ties, which continue to be disrupted as a consequence of the territory's illegal annexation in 1981 (arts. 2 and 5 of the Convention).

The State party should ensure equal access for all residents of Israeli-controlled territories to fundamental rights such as the right to land, housing, movement, marriage and choice of spouse. The Committee urges the State party to find a satisfactory solution to the issue of family separation that particularly affects Syrian residents of the Occupied Syrian Golan.

30. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular treaties the provisions of which have a direct bearing on the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).

31. In light of its general recommendation 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the Outcome Document of the Durban Review Conference, held in Geneva in April 2009, when implementing the Convention in its domestic legal order. The Committee takes note of Israel's explanation for its refusal to acknowledge and abide by the Durban Declaration of the International Conference against Racism and Related Intolerance held in Durban, South Africa, in 2001. However, taking into consideration the evident importance of that document for a large segment of humanity, the Committee strongly recommends that Israel re-examine its position and adopt adequate policies and plans to implement the Declaration.

32. The Committee recommends that the State party consult and expand its dialogue with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination in Israel proper and the territories under its effective control, in connection with the preparation of the next periodic report.

33. The Committee encourages the State party to consider making the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.

34. The Committee recommends that the State party ratify the amendments 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 its resolution 47/111. In this connection, the Committee cites General Assembly resolutions 61/148, 63/243 and 65/200, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

35. The Committee recommends that the State party's reports be made readily available and accessible 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 the official and other commonly used languages, as appropriate.

36. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 16, 18 and 30 above.

37. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 11, 12, 21, 26 and 29 and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

38. The Committee recommends that the State party submit its combined seventeenth to nineteenth periodic reports in a single document, due on 2 February 2016, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (see harmonized guidelines for reporting contained in document HRI/GEN.2/Rev.6, chap. I, para. 19).
