



# International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General  
21 August 2019

Original: English

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## Committee on the Elimination of Racial Discrimination Ninety-ninth session

### Summary record of the 2750th meeting

Held at the Palais des Nations, Geneva, on Wednesday, 14 August 2019, at 10 a.m.

*Chair:* Mr. Amir

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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** *(continued)*

*Combined initial and second periodic reports of the State of Palestine (continued)*  
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1. *At the invitation of the Chair, the delegation of the State of Palestine took places at the Committee table.*
2. **Mr. Hijazi** (State of Palestine) said that it was important that the Committee should appreciate the reality in which the State of Palestine was operating. The prolonged military occupation had left it with no control over its borders or resources and with only limited control in city centres. Nonetheless, it was committed to making progress and exercising the right to self-determination.
3. The relationship between Israel and the Palestinian people was not a question of perspective; Israel was the occupier and oppressor, and the Palestinian people were the occupied and the oppressed. That situation had been confirmed by numerous international organizations and bodies, including the International Court of Justice. The occupying Power held absolute control over Palestinian territory, which it used to deny the Palestinian people fundamental rights and to exercise punitive policies and practices that discriminated against the Palestinian people on the grounds of their nationality. In line with general recommendation No. 35 on combating racist hate speech, it was therefore reasonable for the Palestinian people to protest against such treatment. To claim that such protests amounted to incitement to violence was to deny the entitlement of Palestinians to basic rights. The main real source of violence in the country was Israeli oppression. Despite those injustices, the State of Palestine was taking all possible measures to preserve the character of Palestinian society and to ensure that it was not stripped of its humanity by the occupation.
4. Israel was bound by the Geneva Convention relative to the Protection of Civilian Persons in Time of War and its actions must be examined in that light. Practices such as home demolitions were illegal and constituted a form of collective punishment. The State of Palestine continued to exercise its duty to provide care for forcibly displaced families.
5. The conflation of opposition to the Israeli occupation with anti-Semitism was a cynical and counterproductive ruse designed to silence righteous dissent. The State of Palestine rejected all forms of hatred, including anti-Semitism, and accepted that not all Jews were responsible for the actions of the Israeli regime. It had the right, however, to criticize, in accordance with international law, the violations perpetrated by that regime.
6. The State of Palestine had already deposited its declaration recognizing the competence of the Committee to hear complaints pursuant to article 14 of the Convention. The Independent Commission for Human Rights had been established inter alia to oversee the submission of complaints and to follow up on them. The State of Palestine was in the process of finalizing its common core document, which it hoped to submit before the end of 2019.
7. **Mr. Zeid** (State of Palestine) said that, in 2000, the State of Palestine had introduced its first national school curriculum, which incorporated education on human rights, citizenship and international humanitarian law both as separate modules and as part of history and language teaching and civic and national education. Human rights education was split into four distinct stages depending on the year of instruction, with suitable topics and teaching methods for each age group. The Government had also worked with civil society organizations to produce guides for teaching legal and humanitarian concepts to students in grades 1 to 12. The guides covered the topics of humanitarian law, human rights, the rule of law, citizenship, transparency and integrity, and the role of education in combating corruption.
8. The educational framework was based on the principles that all persons had the right to education without discrimination, that education strengthened global citizenship, helped develop the relationship between the individual and the State and promoted religious and cultural harmony, and that human rights and citizenship must be included in the curriculum.

Students were taught about the important contribution of minority groups to Palestinian society and identity. Citizenship studies included discussions and debates on positive behaviours, such as respect for others, and on situations applicable to the everyday life of students. The State of Palestine had also worked with the Red Cross to run simulation scenarios with students to explain international humanitarian law.

9. Some of the aims of the National Strategic Plan for Culture and Cultural Heritage 2014–2016 were to generate policies to protect Palestinian culture and to raise awareness of its religious and racial pluralism. Under the Plan, cultural activities were inclusive of all Palestinians, regardless of ethnic origin. The Plan also focused on providing investment to allow schools to host cultural and art exhibitions and on supporting talented students to help them develop their skills. All policies implemented under it were assessed against indicators: for example, 18 cultural events had been held in public libraries in 2014 and 2015, rising to 22 in 2016, and the number of cultural centres that doubled as polling stations had increased to 47.

10. Although the European Union had wished to conduct a comparative study of the Palestinian and Israeli curricula, Israel had refused to participate. The State of Palestine had proceeded with the study, however, with a view to improving its educational programme.

11. The Palestinian curriculum was not prejudiced against Israelis. On the contrary, it emphasized the need to show respect for all persons, regardless of their religion. Nonetheless, the curriculum needed to reflect the conditions experienced by students, many of whom had witnessed the destruction of their homes and schools. Under international law, an occupied people had the right to use all tools at their disposal to resist the occupying force. The United Nations Relief and Works Agency for Palestine Refugees in the Near East, which taught the Palestinian curriculum to refugees, had confirmed that the curriculum was almost entirely in conformity with international educational standards.

12. The Israeli occupation was also discussed in the curriculum, which employed the term “Jewish Zionist”, the wording used in the Balfour Declaration. Students were also taught about the racial discrimination inherent in the Declaration. Textbooks did not define the borders of Israel, as Israel itself had not defined its borders. Students were, however, taught about Jewish culture and religion and about the rights of the Jewish communities that had lived in the territory dating back before 1947. Students were also taught about the principles of resistance as defined in international humanitarian law, such as the need to protect civilians and to engage in combat only with other combatants. Despite the claims made by Israel, the Palestinian national anthem did not refer to killing others. The meaning of the anthem was that Palestinians were prepared to sacrifice themselves for their country.

13. Educational programmes were evaluated on the basis of the extent to which they covered human rights, gender issues and the Sustainable Development Goals. A body comprising representatives of Palestinian non-governmental organizations (NGOs) and international donors had undertaken an evaluation of all educational programmes for pupils from grades 1 to 6. The evaluation had concluded that the educational programmes comprehensively covered all human rights. The Government hoped to receive advice from the Committee in order to further improve its educational programmes.

14. The Samaritan community had recently held religious celebrations at the holy site of Mount Gerizim. A school set up in the Mount Gerizim area was attended and staffed by both Samaritans and non-Samaritans. There were 21 Samaritan public officials. The leader of the Samaritan parliamentary group had stated that the members of his community did not want to benefit from any kind of quota for appointment to official positions. They did not want to receive special treatment of any kind, positive or negative. A number of social and sanitation projects were in place for the benefit of the Samaritan community.

15. **Ms. Barghouthi** (State of Palestine) said that her Government sought to adopt national policies and legislation that were in line with all ratified conventions even before the content of such conventions had been disseminated in the country. The Convention would be submitted to the Council of Ministers with a view to its dissemination and publication. In 2014, the President had established a standing committee to monitor accession to and the implementation of international instruments, and the committee had appointed a group of experts to that end. The Government took a comprehensive approach to the promotion of

human rights and their integration into national legislation. Under the Declaration of Independence and the Basic Law, the judiciary began implementing the content of human rights instruments even before their publication in the Official Gazette.

16. In 2018, the judicial inspectorate of the High Judicial Council, in collaboration with the European Union Police Mission for the Palestinian Territories, had prepared a guide for the judiciary on the international treaties to which the State of Palestine had acceded, in order to facilitate their implementation. In addition, members of the judiciary had taken part in a training course on the application of human rights instruments at the Raoul Wallenberg Institute in Sweden. Continuous training on international law and conventions was mandatory for sharia magistrates. The Government planned to develop a training programme for magistrates on how to use their discretionary powers and formulate decisions in line with international treaties. The Supreme Constitutional Court had issued a decision affirming that international human rights instruments must be incorporated into national legislation. Social justice, equality and non-discrimination on the basis of race, religion and gender were enshrined in the Declaration of Independence.

17. The Independent Commission for Human Rights received funding from the regular budget, in line with the Paris Principles, although it could also obtain funding from other sources. The Commission was competent to receive individual petitions, in accordance with article 14 of the Convention. The Commission was an observer member of the committee for harmonizing legislation, which ensured that laws were in line with the provisions of international conventions. In its capacity as an ombudsman for cases involving human rights violations, the Commission received around 2,500 complaints each year. However, it had yet to receive a complaint of racial discrimination.

18. The National Policy Agenda 2017–2022 demonstrated the Government's commitment to the Sustainable Development Goals. The State of Palestine had been the first country in the Middle East to submit a voluntary report on that subject to the United Nations General Assembly, despite the challenges it faced as a result of occupation, which had been recognized *inter alia* by the United Nations Conference on Trade and Development. The Government had appointed a group of experts to monitor the implementation of the Sustainable Development Goals and had signed several memorandums of understanding on that subject with other Governments.

19. All Palestinian refugees enjoyed the inalienable right of return. The Government provided assistance and services to refugees and supported infrastructure projects in refugee camps. Her Government rejected any attempts to deprive refugees of their rights, especially their right of return. In the State of Palestine, refugees were not subjected to discrimination in the enjoyment of their civil, political and cultural rights. The Government supported civil society organizations that advocated for the rights of refugees, and it engaged with international organizations to improve the living conditions of refugees.

20. The State of Palestine participated in all meetings held by the Independent Permanent Human Rights Commission of the Organization of Islamic Cooperation and participated in the drafting of its documents on human rights.

21. **Mr. Idkeidek** (State of Palestine) said that international instruments could be invoked in the courts even before their publication. A recent decision of the Court of Cassation included a quote from the preamble to the Convention on the Rights of the Child. Decisions of other courts had also referred to international instruments.

22. Racial discrimination was prohibited under the amended Basic Law and the Declaration of Independence. Article 150 of the Jordanian Penal Code provided for a prison sentence of up to 3 years and a fine for inciting racial hatred or division. Furthermore, it called for the disbanding of such associations inciting hatred and penalization in the form of a prison sentence for their officials. Almost 1,000 cases had been brought before the courts under that article, and those found guilty had received prison sentences of 6 months to 2 years. Article 47 of the Press and Publication Act provided that any newspaper inciting hatred was liable to a 3-month suspension, however, no cases had been brought before the courts under that article. The General Elections Act, Act No. 1 of 2007, set out prison sentences and fines for hate speech against candidates in national elections. However, no cases had been brought before the courts. Under the Electronic Crimes Act, Act No. 10 of 2018, any person

using an application, website or online account to spread racial or religious hatred or discrimination was liable to a prison sentence or fine. In the 10 such cases that had been concluded, those responsible were fined. Article 278 of the Penal Code provided for a prison sentence of no less than 3 months and a fine for any person publicly offending or insulting the religious feelings or convictions of another. Almost 3,000 such cases had been brought before the courts, and prison sentences or fines had been imposed.

23. National legislation did not expressly prohibit trafficking. However, sexual exploitation and its promotion on the Internet were prohibited. Article 3 of the Penal Code provided for a prison sentence of up to 3 years for attempted rape or sexual exploitation. Five cases had been brought before the courts, of which four had been concluded, resulting in acquittal for some defendants and prison sentences of up to 2 years for others. The trafficking and sale of human organs were prohibited under national legislation, but no cases relating to that prohibition had been brought before the courts.

24. The Penal Code recognized that victims of incitement to hatred had the right to a legal remedy in the civil or criminal courts, but no such cases had been brought before the courts.

25. Under the Basic Law, judicial action must be equally accessible to all Palestinians, regardless of race or religion. A Constitutional Court decision of 2017 stated that there could be no discrimination between people before the courts. Integrity and independence must be shown in all judicial action in order to foster confidence in the judiciary. While it was undeniable that in some instances arrests had involved a political element, in practice, the courts had either amended the charges or dropped such cases, unless weapons were involved. For example, in 2009, the Supreme Court had ruled in favour of a teacher who had been dismissed on the basis of his political beliefs, and he had been reinstated in his position. A compensation claim relating to that case was currently before the courts.

26. No cases of honour killings had been brought before the courts since the Penal Code had been amended. Travel bans were prohibited under national legislation, except when such a prohibition was duly issued by a court. In order to issue such a prohibition, a judge must first summon a person and request a financial guarantee to allow for travel. If the financial guarantee was not paid, a prohibition on travel could be issued until other measures could be taken.

27. Articles 97 to 109 of the Basic Law established that the High Judicial Council regulated the judiciary, including the appointment of members of the judicial branch. The Supreme Constitutional Court was comprised of judges of other courts, experts in constitutional law and lawyers. The Court was an independent body. It was based in Jerusalem, but could also hold meetings in Ramallah and Gaza. The Supreme Constitutional Court was competent to hear issues related to constitutionality, the interpretation of statutory rights, difficulties or disputes in the implementation of those rights and disputes between the judiciary and administrative authorities. It could also take decisions regarding the competencies of the president.

28. **Ms. Arar** (State of Palestine) said that Palestinians who lived in the West Bank and the Gaza Strip received identity cards once they turned 16. However, children whose parents did not declare their birth did not have the right to receive such cards. Persons who lived abroad could not obtain the cards, even if they had been born on Palestinian territory. Many Palestinian children from Jerusalem had lost their eligibility for a Palestinian residency permit owing to the imposition by the Israeli authorities of strict qualification criteria.

29. Persons who had been deprived of identity documents for various reasons were treated as fully-fledged citizens by the Palestinian authorities and were not subjected to discrimination when accessing social and medical services. Previously, identity cards had stated the religion of the holder. However, a decision had been taken to abolish that field, in order to prevent discrimination. In accordance with the Oslo Accords, some Palestinians were eligible to apply for temporary Jordanian passports.

30. The State of Palestine had a national programme to combat the crime of trafficking in human beings, which included the organization of training sessions for law enforcement officers. Efforts were under way to bring national legislation into line with the regional and international agreements on trafficking in persons to which the State of Palestine was party.

31. **Ms. Hanania** (State of Palestine) said that the Higher Presidential Committee for Church Affairs had been the first body created in the region to provide follow-up to judicial decisions regarding the affairs of churches and ethnic minorities, which it did in close cooperation with judges. The Israeli occupation posed an existential danger to Christian communities in Palestine, owing to the impact it had on economic life, especially in the cities of Bethlehem, Ramallah and Jerusalem. Palestinian Christians were a minority, but the Government was fully aware of the importance of their rich history and heritage.

32. Municipal quotas were in place to guarantee the political participation of minorities, and a presidential decree ensured that the councils of 10 municipalities included Christian leaders. In Bethlehem, Syriacs also had a particular, recognized status. The Armenian community played an eminent role in public affairs. Syriac, Armenian and Maronite masses and programmes were regularly broadcast in the corresponding minority languages, on radio and television. The State devoted considerable attention to the reconstruction and renovation of old convents and churches, including those that were no longer in use.

33. **Mr. Atiah** (State of Palestine) said that the State had not historically kept statistics on descent, skin colour or ethnicity, because the Palestinian population was quite homogenous. However, a large number of minorities lived in Jerusalem. In 2018, 13,000 families, including over 4,000 in the Gaza Strip and the West Bank, had been surveyed about 8 forms of discrimination, including racial discrimination. In the next few years, the State planned to develop databases that would draw on various sources in order to provide reliable statistics to help achieve development objectives. Following recommendations made by the Committee on the Elimination of Discrimination against Women, a team had been set up to restructure the proposed national indicators through consultations with various stakeholders at the national level.

34. **Ms. Rimawi** (State of Palestine) said that the Ministry of Health had created special centres to provide treatment and support to vulnerable groups, including members of the Roma and Nawar communities. Mobile clinics had been set up to help communities in hard-to-access areas. Nomads living between Jericho and Jerusalem had been provided with full medical insurance. Bedouin communities were serviced by health workers trained in general, maternal and child health.

35. **Mr. Hardan** (State of Palestine) said that, as the principle of equality before the justice system reigned supreme in the State of Palestine, discrimination of any kind was not tolerated. Defendants who could not afford their own lawyer had the right to legal aid, as did victims of the occupation who had, for example, had their houses destroyed. A new draft law on legal aid was being finalized and was due to enter into force in 2020.

36. **Mr. Sedir** (State of Palestine) said that marriage was governed by a law on personal status in the West Bank and a law on the family in the Gaza Strip. Both parties had to enter the marriage freely, and if it was found that a marriage was forced, it was nullified. Penalties were imposed for the marriage of minors. Inheritance was regulated in accordance with the Hanafi school of jurisprudence, based on the relative economic situation of the two families, and without discrimination on the basis of ethnicity or on other grounds.

37. **Ms. Alkhalili** (State of Palestine) said that relations between employers and employees were defined in the Palestinian Labour Code (Act No. 7 of 2000) and Ordinance No. 2 of 2013. Domestic employment was not a widespread phenomenon outside Jerusalem. Although attempts had been made to draw up special regulations for domestic workers, the sector was not yet fully regulated. Foreign workers were governed by the Palestinian Labour Code and must obtain a work permit prior to the commencement of their employment. All foreign workers had the right to join trade unions.

38. **Ms. Abdelkhalak** (State of Palestine) said that an institute for economic empowerment had been established in 2014 to provide grants to disadvantaged members of society. Bedouin communities had received 5 per cent of the overall financial support that had been allocated.

39. **Mr. Yeung Sik Yuen** said that he had heard that the prohibition against Samaritans marrying outside their community had resulted in a crisis in that community, where males outnumbered females two to one. He wished to know what remedial measures the State party

was taking to change attitudes and eliminate discrimination with respect to marriage. He would appreciate clarification on whether a foreign female spouse of a male Palestinian national automatically acquired Palestinian nationality. What remedial measures were applied by administrative courts in relation to claims of racial discrimination? It was unclear to him whether recourse to an administrative court prevented people from being able to seek redress from a civil or criminal court. It would be helpful if the delegation could inform the Committee of the number of members of the judiciary and of the size of the population effectively covered by the Palestinian justice system.

40. **Mr. Avtonomov** said that he wished to stress the value of common core documents, which were used not only by the Committee but also by many other human rights treaty bodies. He recommended that the State party should, in its future periodic reports, pay particular attention to answering the Committee's concerns and recommendations regarding the situation of refugees, internally displaced persons and minorities.

41. **Mr. Hijazi** (State of Palestine) said that his delegation would be happy to provide maps and a written account of the historical events which had led to the loss of Palestinian territory to Israel. Palestinian citizenship was granted equally to both male and female foreigners if it could be proven that either the grandmother or grandfather of the individual in question was Palestinian. It was prohibited by law to revoke the citizenship of a Palestinian. The State of Palestine did not consider any of its people to be stateless. Regardless of where Palestinians lived, they were aware of where they came from and of their heritage. The Palestinian authorities had requested the Special Rapporteur on trafficking in persons, especially women and children, to visit the State of Palestine and its relevant institutions so that they could learn about best practices. The delegation would provide follow-up information within a year, as requested by the Committee, and the State party's common core document would be finalized by the end of 2019.

42. **Ms. Izsák-Ndiaye** said that the State of Palestine should encourage minorities to exercise their rights and to use the legal frameworks in place to do so. If minorities did not self-identify as such, it was more difficult for them to claim their rights and to combat discrimination. She would appreciate more information on the status of Jewish people in the State of Palestine and on whether the Government intended to enshrine the rights of minorities in higher laws, such as the Constitution, rather than through presidential decrees, as was currently the case.

43. **Mr. Calí Tzay** said that he was glad to hear that international laws prevailed over national laws, pursuant to case No. 4 of 2017. He would like to know how many cases of racial discrimination had been brought before the courts and whether clear judicial procedures were in place for such cases. A high number of cases presented to the courts did not necessarily reflect a situation of generalized racial discrimination; it could instead be an indicator of public confidence in the justice system. Likewise, a lack of cases did not necessarily indicate that racial discrimination did not take place.

44. Following the recent repeal of an article of the Penal Code in the West Bank which addressed the question of honour killings, he asked whether educational programmes had been launched to ensure that Palestinian women were aware of the change in the law. He also invited the delegation to provide information on the number of human rights activists and journalists detained in the West Bank and belonging to minority groups and the fate of 1,600 individuals detained between 2018 and 2019 as a result of sectarian tensions. The Committee would like to find out whether individuals were entitled to self-identify with a particular group or community of their choice. Did the State party have plans to produce statistics pertaining specifically to minority women?

45. **Mr. Hijazi** (State of Palestine) said that individuals were entitled to register their racial background with the public authorities if they wished to do so, although it was not mandatory. The reason that information did not appear on identity cards was to prevent the possibility of discrimination. Awareness-raising campaigns had been conducted with regard to the revocation of the article of the Penal Code on honour killings, but more efforts were needed to truly effect change. NGOs were working actively in that area. Although it was true that the Supreme Constitutional Court had ruled that international laws took precedence over domestic legislation, progress towards achieving that goal in practice would be slow, as it

would take a long time to change outdated laws inherited from as far back as the period of Ottoman rule. Noting that many members of minority groups did not wish to self-identify as such, for fear of becoming a target of discrimination, he agreed that minorities should be protected by law and that they should be informed that they did not hold a lesser social status by virtue of the fact that they were minorities. The State of Palestine would continue to respect how individuals chose to identify themselves.

46. **Mr. Bossuyt** said that he would appreciate a response to his earlier question, namely whether the different way in which the State of Palestine exercised its authority over the West Bank and Gaza had any impact on the application of the Convention.

47. **Ms. McDougall** said that she had not received a response to her earlier questions regarding how laws were promulgated in the State of Palestine, which population groups were covered by such laws and the interpretation of Supreme Constitutional Court Decision No. 4 (2017).

48. **Mr. Diaby** said that he would like to know whether the State of Palestine was considering ratifying the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, and how the authorities trained police officers to manage mass human rights protests.

49. **Mr. Hijazi** (State of Palestine) said that the political system in the State of Palestine had unravelled following the coup d'état by Hamas in 2006. Notwithstanding the fact that the Palestinian Authority did not recognize the control of Hamas over Gaza, the split in Palestinian territory had resulted in a stagnation of the legal system. The Palestinian Central Council would be responsible for ensuring that there were no gaps in legislation. The adoption of legislation involved the following procedures: the relevant ministry drafted a law; the law was then passed on to the committee for harmonizing legislation to verify its compliance with relevant international laws and treaties; the law was subsequently referred to the Council of Ministers for approval; and once approved, it was sent for consideration by a legislative body and finally signed by the President.

50. The authorities of the State of Palestine were very sensitive to the term “statelessness”, as they did not consider the Palestinian people as such. However, they were open to considering the two conventions on statelessness. General training on crowd control and the management of mass protests was provided to police officers. The training was rigorous and respect for international human rights was a central theme. All prisons in the State of Palestine were open to inspection by a number of international bodies, such as the Office of the United Nations High Commissioner for Human Rights (OHCHR), the International Committee of the Red Cross and the European Union. The delegation regretted that there were no more precise figures on the Roma population in the State party report.

51. **Ms. Chung** (Country Rapporteur) thanked the delegation for their frank answers during the interactive dialogue. The State of Palestine needed to undertake significant political reform. The Palestinian Legislative Council had been unconstitutionally dissolved and should be urgently reconvened. General democratic elections should be held, and reconciliation with Hamas was necessary for the purposes of Palestinian development.

52. **Mr. Khraishi** (State of Palestine) said that the delegation of the State of Palestine had aimed to share its concerns during the interactive dialogue and that the authorities hoped to be guided by the Committee in their fulfilment of the provisions of the Convention. The State of Palestine was determined to fulfil its human rights obligations, but it was difficult to do so when it was deprived of the right to self-determination.

53. **Mr. Hijazi** (State of Palestine) said that the State of Palestine was committed to the implementation of the Convention. He reminded the Committee that the defence of the rights of the Palestinian people was an international responsibility.

*The meeting rose at 1.05 p.m.*