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the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-fourth session

SUMMARY RECORD OF THE 1628th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 3 March 2004, at 3 p.m.

Chairman: Mr. YUTZIS

later: Mr. PILLAI
(Vice-Chairman)

later: Mr. YUTZIS

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Fourteenth to sixteenth and seventeenth periodic reports of Lebanon

(CERD/C/383/Add.2; CERD/C/383/Add.2 (Suppl.); HRI/CORE/1/Add.27/Rev.1; questions by the Country Rapporteur)

1. At the invitation of the Chairman, the members of the delegation of Lebanon took places at the Committee table.
2. Mr. SOUFAN (Lebanon), introducing the fourteenth to sixteenth and seventeenth periodic reports of Lebanon (CERD/C/383/Add.2; CERD/C/383/Add.2 (Suppl.)), said that rehabilitation and reconstruction had begun in the south of Lebanon, after the end of the Israeli occupation in 2000. Lebanon placed great importance on respect for human rights and fundamental freedoms, and although the Lebanese legal and political systems were not perfect, efforts were continually being made to improve them.
3. Mr. MAAMARI (Lebanon), after apologizing for the late submission of the Lebanese periodic reports, which he said had been due to administrative problems, said that in the past, the Committee had expressed concern over the prospect of confessionalism leading to the occurrence of racial discrimination. The Government considered that the differences between confessions were religious rather than ethnic, and did not amount to racial discrimination. The end of political confessionalism had been marked by the Taif Agreement in 1989, which had been followed up with a constitutional amendment in 1990. The Government appreciated the Committee's understanding regarding the gradual nature of the change and noted with satisfaction that successful inter-confessional dialogue had begun within official organizations, leading to mutual acceptance and respect. Lebanese society comprised 18 communities, whose coexistence required tolerance and respect for human rights. Pope Jean-Paul II had described Lebanon as conveying a message of coexistence, tolerance, dialogue, acceptance and mutual respect to the rest of the world. Lebanon had been chosen to host the International Francophone Summit in 2002, the theme of which had been dialogue between cultures.
4. Palestinian refugees, who currently accounted for approximately 11 per cent of the population of Lebanon, had been housed and given aid by the country for over half a century. The problem of Palestinian refugees was, however, an international responsibility and efforts were continually made by the Lebanese Government to appeal to the international community for assistance in that regard. The Government had taken measures to promote public awareness of human rights and fundamental freedoms in Lebanon, and the Lebanese media were free to cover any human rights violation cases without restriction.
5. Mr. TANG Chengyuan, Country Rapporteur, said that Lebanese courts recognized the primacy of international law over domestic law and that the international conventions to which the State was party would be implemented as part of its domestic legislation once that legislation had been completed. Regarding confessionalism, he wished to know whether each religious community allowed people of other faiths to live within it; whether religious communities were

recognized administrative units; and whether ethnic minorities not living in a religious community were unfairly represented in the electoral system. Paragraph 24 of the sixteenth report mentioned that article 2 (d) of the Convention had not yet been implemented. He wished to know whether no legislative measures had been taken, or whether existing racial discrimination had not been combated. Lebanon's Criminal Code provided for the punishment of any act inciting religious or racial hatred, and for the punishment of members of organizations or associations promoting such acts. He asked whether any associations or individuals had perpetrated such crimes in Lebanon.

6. Measures should be taken to ensure equal terms of employment for Lebanese and foreign workers, and particular attention should be paid to the working conditions of Palestinians. The Lebanese Constitution provided that all Lebanese were equal before the law and he wondered whether that provision also applied to non-citizens. According to paragraph 42 of the sixteenth report, the confiscation of passports by employers, although deplorable, was not tantamount to racial discrimination. He asked whether any employers who had confiscated passports had ever been prosecuted. The Ministry of Labour had finalized a bill for a new labour code. Domestic workers, however, were not covered by the new code, and the delegation should explain why that was the case.

7. The right to Lebanese nationality was based on the principle of jus sanguinis on the paternal side. He wondered whether consideration was being given to extending the principle to the maternal side as well. As many as 8 per cent of the population had been affected by the 1994 naturalization decree. Although that was a great achievement, he wished to know whether the decree also affected Palestinian refugees. The Real Property Act set limits for the size of property that could be acquired by non-Lebanese citizens. He wondered whether that regulation also applied to the Palestinian refugees, and whether refugees living in refugee camps enjoyed the same rights as other foreigners resident in Lebanon. He asked whether the Government had taken any measures to improve the situation of the large number of Palestinian children living below the poverty line in Lebanon.

8. Lebanon's usual practices relating to legal assistance were based on the principle of reciprocity. The principle could not be applied to Palestinians, however, as in the past the State of Palestine had not existed, and although it had been established, it still lacked definite jurisdiction. He wondered what measures had been taken by the Lebanese Government to deal with that problem.

9. Lebanon should be commended for its efforts to phase out political confessionality, while maintaining parity between Christians and Muslims. It was understandable that national reconstruction and reconciliation were government priorities, and that some domestic legislation had not yet been developed, but efforts should be made to establish laws on the prohibition of racial discrimination as soon as possible.

10. Palestinian refugees and foreign migrant workers accounted for a third of the population of Lebanon. Such practices as confiscating the passports of foreign workers, in particular domestic workers, and restricting their freedom of movement, ran counter to the provisions of human rights treaties. The Government should take measures to gradually improve the civil, political, economic, social and cultural rights of Palestinian refugees and foreign workers in order to maintain stability and encourage economic development in Lebanon.

11. The situation of Palestinian refugees in Lebanon was particularly difficult. The Government did not recognize their rights under the 1951 Convention relating to the Status of Refugees, nor under the 1954 Convention relating to the Status of Stateless Persons, neither of which Lebanon had signed. Moreover, Palestinian refugees were not granted the same rights enjoyed by other foreign nationals because, as he had mentioned earlier, such rights depended upon reciprocity agreements with foreign countries recognized by Lebanon, which did not include Palestine. Given that situation, Palestinians in Lebanon were far from enjoying the rights to which they were entitled under the Convention in terms of political life, citizenship, employment, education, health and judicial assistance.

12. According to information he had received from the Palestinian Human Rights Organization, Lebanese authorities feared that Palestinian refugees would remain in Lebanon and upset the ethnic and religious balance of the country. Such an attitude was not consistent with the Convention. He urged the State party to initiate dialogue with the Palestinian representative in order to formulate appropriate humanitarian measures to benefit the Palestinian refugees in Lebanon. The State party had hosted many Palestinian refugees since 1948 and its enormous contribution was recognized by many. He hoped that Lebanon would continue those efforts by granting better treatment to the Palestinian refugees within its borders.

13. Mr. THORNBERRY said that the form of confessionalism practiced in Lebanon was a very particular system in which belonging to a community was a key datum in defining a person's existence. He recalled that the Convention was an instrument aimed at promoting integration, but it did not go so far as to promote assimilation. The Committee was respectful of individual identities within the social and political system in Lebanon. However, from the standpoint of the general norms of the Convention, a highly confessional political and social arrangement could raise issues for individual rights, notably the freedom to belong or not to belong in terms of membership of a community. The Committee had already expressed its concern with regard to the rights of persons who did not wish to disclose their descent, ethnic origin or religious faith in order to participate in public life. It had also indicated its concern over the fact that individuals in Lebanon were assigned to communities by compulsory census registration of ethnicity or religion, made to carry identity documents and required to formally transfer from one community to another if they wished to leave a particular community. He enquired whether, without abandoning the traditional system, it might be possible to formulate exceptions for the benefit of individuals who did not wish to belong to a community at all but preferred a more secular, undifferentiated form of citizenship. It could be regarded as fundamental to minority rights for the Government to recognize such a right of exit, since the message of international standards was that the fact of belonging or not belonging should not create disadvantages.

14. Regarding efforts to carry out a step-by-step elimination of the system of political confessionalism (sixteenth periodic report, para. 20), he agreed that the educational role of the Government must not be overlooked. Assistance in the educational process could also be found in international standards, including the Convention. It was important for any system, whether based on the special measures described in article 1 (4) and article 2 (2) of the Convention or on minority rights, to maintain a balance and to ensure that the general protection afforded a particular community did not result in discrimination against the others. There was a fine line between special measures and the recognition of minority rights, on the one hand, and the

institutionalization of a system of privileges contrary to article 1 (1) on the other. He did not to imply that that line had been crossed, but wished to remind the Government that situations needed to be reviewed constantly to ensure that a just balance was being maintained for the benefit of all in Lebanon.

15. Mr. de GOUTTES said that the examination of the seventeenth periodic report of Lebanon was of particular interest to the Committee because of Lebanon's unique system of confessionalism. Among the positive aspects of the report was the fact that it provided statistics on the number and breakdown of foreigners with residence permits; the distribution of work permits by country and profession; and measures taken to improve the protection of foreign workers. He requested additional information on the scope of an arrangement concluded in 2003 (para. 21) with the Office of the United Nations High Commissioner for Refugees (UNHCR).

16. He recalled that, in its concluding observations of March 1998 (CERD/C/304/Add.49), the Committee had supported efforts in the State party aimed at the gradual elimination of the system of political confessionalism in the spirit of the Taif Agreement of 1989 and the constitutional amendments of 1990. In the Government's latest view, however, the system of political confessionalism was apparently necessary as a means of securing civil peace (sixteenth periodic report, para. 21). Although the community divisions in Lebanon were based more on religion than on ethnic origin, the Government had acknowledged that there was an ethnic aspect to some communities that gave rise to obligations under the Convention. He wished to know why the Government had recently adopted a more cautious attitude towards the elimination of the system of political confessionalism. He enquired whether the Government believed that the distinctions made in that system constituted the kind of special measures described in article 1 (4) of the Convention.

17. According to information received from non-governmental organizations (NGOs), Palestinian refugees in Lebanon continued to suffer discrimination with respect to working conditions, the right to housing, the right to social security, and freedom of movement and residence. Regarding social security, the NGOs requested that the condition of reciprocity for Palestinians who resided permanently in Lebanon should be removed. The delegation should comment on that request. He asked whether measures had been taken to end the practice engaged in by some employers of confiscating the passports of foreign workers, which had been deemed unlawful under Lebanese legislation (seventeenth periodic report, para. 47).

18. He noted that the provisions of articles 317 and 318 of the Criminal Code (sixteenth periodic report, para. 29) responded, for the most part, to the requirements of article 4 of the Convention. He suggested that the Government should consider instituting a general aggravating circumstance for elements of racial bias in criminal offences. That would enable judges to award heavier penalties for offences with racist or xenophobic biases. The delegation should provide concrete examples of the practical application of the Criminal Code's provisions as they related to the reporting, prosecution and punishment of racist acts. Lastly, he wished to know the Government's position with respect to the declaration States parties could make regarding article 14 of the Convention on the individual communications procedure.

19. Mr. BOYD said that the displacement of the Palestinian people had placed a substantial, not to say disproportionate burden on Lebanon and its people as a result of a very difficult political situation marked by profound suffering. That burden was all the heavier given Lebanon's efforts to recover from its own internal difficulties and the fact that the presence of such large numbers of Palestinian refugees in Lebanon was a situation for which the international community bore collective responsibility.

20. Nevertheless, the Committee had a number of concerns, particularly in connection with the existence of legally sanctioned discrimination against Palestinians in several areas. Those included the prohibition or restriction on the ownership and inheritance of property by Palestinians and the application of the reciprocity clause and its effect on the rights of Palestinians to work in Lebanon and to due process in Lebanese courts. He would welcome the comments of the delegation on those concerns in the light of article 5 (a) and 5 (d) (v) of the Convention, which enumerated fundamental rights. Specifically, he wished to know whether, given the presence of the Palestinians in Lebanon for either the short or long term, the Government recognized their entitlement to those rights. If so, he asked whether it foresaw the possibility of making positive reforms that would address the Committee's concerns.

21. Mr. LINDGREN ALVES said that he was particularly interested in Lebanon's report, among other reasons, because it described a country whose tradition of jus sanguinis meant that there were more Lebanese in Brazil than there were in Lebanon. He wished to know why only males could transfer Lebanese nationality to children.

22. He noted that the system of political confessionalism practised in Lebanon was akin to post-modern constitutionalism. The cultural trend expressed in many international forums favoured the division of the world into microcommunities of identity. He wondered whether the Committee's advice to countries that they should adhere very strictly to that trend might foster a form of segregation that could potentially lead to war, as it had in the case of Lebanon's civil and largely interdenominational war.

23. He had noted with disappointment that efforts made by the President to draft a civil law had not been favourably received (sixteenth periodic report, para. 46). That gave rise to the question as to whether an atheist had any rights in Lebanon. He wondered what would happen to a person who did not fit into any of the different communities described in the periodic report.

24. Mr. AMIR commended the delegation on having included answers to most of the Committee's outstanding questions in the current periodic report. Lebanon was a State that had managed to provide a safe haven for people of many religions and had been one of the first States in the region to lead the way to democracy. It had become the victim of an international situation for which it was not responsible, but it was nonetheless left with the burden of resolving the resulting problems. Large numbers of Palestinian refugees had crossed the border into Lebanon and violence and terrorism had often resulted from those arrivals.

25. That situation was not, however, sufficient justification for not implementing articles 4 and 5 of the Convention. While Lebanon had appropriate legislation in place, it was difficult to enforce some laws given the current circumstances. The civil conflicts in the reporting State had not improved matters, but until an international political solution was found to the refugee issue, both national and international security would remain threatened.

26. Mr. VALENCIA RODRÍGUEZ, referring to the intention of the reporting State to implement a step-by-step plan to eliminate political confessionalism, said that it would be useful to learn what progress had been achieved, given that little seemed to have changed since the submission of the last periodic report in 1997. Given the historical, legal and political reality in the reporting State, it was difficult to understand why it was necessary to replace political confessionalism by specialization and competence in the public service, the magistrature, the military and security institutions, and public and mixed undertakings (paragraph 20 of the sixteenth periodic report).

27. Despite the affirmation that Lebanese courts recognized the primacy of international law over domestic law (paragraph 1 of the seventeenth periodic report), it was unclear how articles 4 and 6 of the Convention were being applied, given that those articles required the implementation of specific domestic legislation. The Committee recommended the introduction of such legislation, which acted as a preventive measure against racial discrimination. While the State party's assertion that racial discrimination did not exist in Lebanon has been noted, the Committee held that no society was immune from such ills. The Committee recognized that Palestinian refugees continued to be a complex issue, but the treatment those people received regarding access to employment, housing, health and social services needed clarification.

28. Additional information on the application of employment provisions to the large number of foreign workers in the reporting State would be welcome. It would also be interesting to have an overview of the new features contained in the labour code currently under discussion, particularly concerning measures to combat racial discrimination and to protect the rights of foreign workers. Regarding foreign female domestic employees, note had been taken of the information in paragraphs 19, 20, 33 and 46 of the seventeenth periodic report. The Committee would appreciate additional information on how the recruitment process and the granting of medical insurance policies were functioning. He commended the State party on the intervention of the General Security Department in cases where foreign workers' passports had been held back by employers and would welcome details of any complaints in that regard.

29. It was difficult to understand why payment of the appropriate fines and taxes by persons who had entered Lebanon illegally (paras. 26 and 27) did not result in legal status, particularly for those who had been living in the State party for some years. Regarding immigration policy, he commended the State party on concluding the agreement with the Regional Bureau of the Office of the United Nations High Commissioner for Refugees and on cooperation with the Migrants Centre of Caritas. Further information on the achievements resulting from those agreements would be welcome. Paragraph 28 referred to the intervention of the Criminal Investigation Department in cases when people had been unable to obtain a passport or laissez-passer from their country's embassy or consular mission. It would be interesting to learn what decision that Department usually took.

30. He commended the State party on the draft of the new labour law governing payment of compensation for occupational accidents to heirs of foreign workers referred to in paragraph 39, as it was fairer than the previous law referred to in paragraph 38. While the reservation of certain occupations and jobs for Lebanese workers referred to in paragraph 56 was understandable, the effect was indirectly to apportion certain other occupations and jobs to foreign workers. Clarification of that situation was needed.

31. With regard to article 7 of the Convention, he commended the State party on the agreements it had reached with other countries on cultural matters, and the education programmes designed to combat discrimination and foster tolerance, friendship and understanding. The Committee would welcome details of the effects of those agreements and programmes and urged the State party to pay particular attention to the Convention and the work of the Committee when implementing such measures.

32. Mr. AVTONOMOV, referring to the registration of children born abroad (section VIII D of the sixteenth periodic report), said that it was unclear whether the father had to be a Lebanese citizen in order to be entitled to recognize and register his children in a Lebanese registry office. He wondered what confessional group the child belonged to if the father was not a Lebanese citizen and therefore not a member of a confessional group himself, as that would affect political and other rights. The reporting State should explain why so many families which had been resident in the State for many years had been unable to obtain Lebanese nationality. Was there a naturalization process or other means of acquiring citizenship? The confessional group to which those families was assigned should also be clarified. Additional information would be welcome on how the transfer from one confessional group to another functioned in practice.

33. Regarding cases in which Lebanese courts had intervened to return a passport to a foreign worker, it would be interesting to learn whether any administrative mechanisms were in place to prevent the illegal retention of passports by employers. The statistics given in paragraph 52 of the seventeenth periodic report required clarification. The numbers of work permits issued to foreigners from individual African States did not add up to the total number shown, as was the case for Asian countries. Did that indicate that the State party was unsure about which State the workers had come from or was there another explanation?

34. While paragraph 54 of that report stated that Palestinian refugees had travel documents, according to non-governmental organizations some Palestinian refugees had found it impossible to obtain them. The reporting State should clarify the current situation in that respect and explain why large groups of Palestinian refugees were living in Lebanon without being registered. The Committee would like to know whether appropriate measures were being envisaged. The reporting State had done a great deal to alleviate the plight of the large number of Palestinian refugees currently living on Lebanese territory. While the State party was obliged to treat them as refugees, he wondered whether legislation might be adopted to change the status of those refugees as opposed to others who were in the country for only a short time. He would welcome the reporting State's comments.

35. Mr. Pillai (Vice-Chairman) took the Chair.

36. Mr. KJAERUM, referring to foreign domestic workers in Lebanon, said that the reporting State should be more specific about agreements with States from which many of those workers originated, particularly Sri Lanka, Ethiopia and the Philippines. While bilateral agreements giving foreign workers security in Lebanon had been reached with some States, the majority of those were Western States, which benefited relatively few of the workers concerned.

37. It was difficult to understand why Palestinians who had been born in Lebanon, and even the children of Lebanese mothers and Palestinian fathers, were not granted Lebanese citizenship. The reporting State should explain the reasoning behind the relevant constitutional provision. There had been reports that Lebanese citizenship granted to 10,000 Palestinian refugees in 1994 was currently being challenged. The Committee would welcome an update on that situation and clarification of whether those people were in danger of losing their citizenship.

38. With regard to effective legal remedy against acts of discrimination, as called for in article 6 of the Convention, legal aid was apparently available to non-citizens only on condition that a reciprocity agreement had been signed between Lebanon and the non-citizen's country of origin. Palestinians living in Lebanon were therefore potentially excluded from legal aid, since there was in their case no State with which to enter into agreement. The reporting State should indicate what remedies were available to stateless Palestinians living in Lebanon to address violations of their human rights under the Convention. While he accepted that in theory those people had access to the courts, given the difficulties they encountered in finding work they could hardly afford their own legal representation. Lastly, he asked whether Lebanon had considered establishing a national human rights institution, which other countries had found to be a useful tool in tackling discrimination and pursuing a broad-based human rights agenda.

39. Mr. Yutzis resumed the Chair.

40. Mr. CALITZAY said that while it was sometimes in the interests of non-discrimination to ignore differences between ethnic or religious groups, failing to draw distinctions could also foster discriminatory practices in areas such as education and health. He asked for clarification of the circumstances under which the inviolability of dwellings referred to in article 14 of the Constitution did not apply (paragraph 38 of the sixteenth periodic report). More information was required about the rights of foreigners in Lebanon, particularly Palestinian refugees.

41. In response to a suggestion by the CHAIRMAN, Mr. SOUFAN (Lebanon) said that his delegation would respond to the Committee's questions the following morning.

42. The members of the delegation of Lebanon withdrew.

The meeting was suspended at 5.20 p.m. and resumed at 5.30 p.m.

FOLLOW-UP TO THE WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (agenda item 9)

43. The CHAIRMAN invited Mr. Pillai to brief the Committee on the discussions about the preparation of complementary standards that had taken place when he and Ms. January-Bardill had represented the Committee before the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action. He recalled that the Committee had been invited to submit its written views on the effectiveness of the Convention and its implementation and invited members of the Committee to make suggestions as to how the Committee could best fulfil that task.

44. Mr. PILLAI said that in his presentation to the Working Group he had noted the Working Group's request for the compilation of a compendium of existing instruments, in order to allow the areas where complementary standards might be needed to be identified, and had asked whether those complementary standards were intended to complement existing standards at the conceptual level or the procedural level.

45. With regard to the conceptual level, he had mentioned the Committee's attempts to clarify article 1 of the Convention by elaborating a definition of racism that covered discrimination against particular groups. He had also referred to discussions in academic circles and elsewhere that sought to broaden the concept of racism to include issues such as the exploitation of indigenous lands for commercial purposes, and had pointed to the emergence of terms such as "xenoracism" and "environmental racism", which was leading academics to talk about the existence of "racisms" in the plural.

46. With regard to the procedural level, he had chosen to leave aside the issues of why the Convention was no longer the most ratified human rights instrument, as had previously been the case, and the consideration that was being given to asking States parties to submit a single report, which was being discussed at some length within the Office of the High Commissioner for Human Rights. He had, however, raised the question of how the regular submission of States parties' reports could be encouraged and what could be done to ensure that the quality of States parties' reports was good enough to make the process of consideration by the Committee truly meaningful, in particular by ensuring that information was duly provided on practical implementation and not just about relevant constitutional and legislative provisions. He had highlighted the need for an effective follow-up mechanism to ensure that States parties complied with the observations and recommendations of the Committee, and had asked what might be done to ensure that the work of the Committee was held in greater esteem by the international community. Lastly, he had pointed to the introduction of the urgent action procedures as an example of what the Committee itself was doing in order to improve existing standards at the procedural level.

47. Speaking in his personal capacity, he had identified education, the need to balance freedom of speech with reasonable restrictions allowed by the Convention, and the need for complementary standards at the national and regional levels as areas that he felt the Working Group should focus on.

48. Mr. CALITZAY explained that the term "environmental racism" did not have its roots in academia; it had been coined by the International Council of Indian Treaties, a non-governmental organization with consultative status to the United Nations, in an attempt to describe the phenomenon of the destruction of the culture, land and livelihood of indigenous peoples.

49. Mr. de GOUTTES said that education and poverty, which had been discussed by the Working Group at its most recent session, were key areas for combating racism. He noted that the Working Group intended to organize thematic discussions on the issues of health and racism, and racism and the Internet at its next session; he wished to know whether discussions on any other topics were planned and what timetable the Working Group had to follow.

50. Mr. KJAERUM said that he did not believe there was any need to develop complementary standards so long as the implementation of existing standards was so rudimentary; if interpreted in a more dynamic fashion, the existing standards could be extended to some of the areas that were felt to be in need of attention. It would be important for the Committee to take that into account when formulating its reply to the Working Group.

51. Mr AMIR suggested that article 5 might provide the link between the themes of education and poverty, because poverty was the main reason for the States parties' failure to fulfil their obligations. The integration of human rights and development was vital.

52. Ms. DAH said that she agreed entirely with the views that Mr. Pillai had expressed to the Working Group in his personal capacity; poverty lay at the root of all discrimination, so that development had a crucial role to play both in ensuring that States parties made progress and in purging discrimination of any kind from people's hearts.

53. The CHAIRMAN said that the Committee would have to return to its discussion of the matter at a later date.

The meeting rose at 6.05 p.m.